

GOVERNMENT OF INDIA
MINISTRY OF FOOD & AGRICULTURE



सत्यमेव जयते

REPORT
OF THE
Committee on co-operative Law

Part I

REPORT OF THE COMMITTEE ON CO-OPERATIVE LAW

VOLUME I

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Report of the Committee on Co-operative Law

CHAPTER I

INTRODUCTORY

1. **Constitution of the Committee on Co-operative Law.**—The Government of India by Resolution No. 5-8/56-Coop. 1, dated the 6th June, 1956 (Appendix I) appointed a Committee to evolve a simple law to govern the working of cooperative societies. The Committee consisted of the following members :

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| 1. Shri S. T. Raja, Bar-at-Law. | Joint Secretary, Ministry of Food & Agriculture, Government of India, New Delhi—Chairman |
| 2. „ S. K. Hiranandani | Additional Draftsman, Ministry of Law, New Delhi—Member. |
| 3. „ J. C. Ryan, IAS (Retd.) | Chief Officer; Agricultural Credit Department, Reserve Bank of India, Bombay—Member. |
| 4. „ K. Subrahmanyam Nayudu, IAS | Registrar, Co-operative Societies, Andhra—Member. |
| 5. „ S. S. Puri, IAS. | Registrar, Co-operative Societies, Punjab—Member. |
| 6. „ M. P. Bhargava | Co-operation Adviser, Ministry of Food & Agriculture—Member—Secretary. |

On his appointment as Joint Secretary in the Ministry of Agriculture, Shri Krishan Chand, I.C.S., took over from Shri S. T. Raja as Chairman of the Committee. In April, 1957 when Shri Krishan Chand went on leave, Shri Raja again took over from him as Chairman of the Committee. The Committee was given powers to co-opt an expert or specialist in co-operation or co-operative law or a representative of State Government for considering any special matter or any law relating to that State Government. Accordingly, the Committee in its first meeting held at New Delhi on 17th July, 1956, co-opted Shri M. D. Vidwans, M.A., LL.M. Professor of Law, Co-operative Training College, Poona and Shri A. Palaniappa Mudaliar, I.A.S., Registrar of Co-operative Societies, Madras, as members.

2. **Terms of reference of the Committee.**—The following were the terms of reference of the Committee :

- (a) To review the existing co-operative legislation and to make recommendations for a simple legislative measure generally suited to the whole country to facilitate co-ordinated progress of the movement.
- (b) To examine, in the light of recommendations of the Rural Credit Survey Report, the modifications necessary in the Co-operative Societies Act and rules for giving effect to the concept of State partnership in share capital and State participation in management of co-operative societies.
- (c) To examine the existing provisions relating to various types of co-operative societies listed below and to suggest if any modifications are required in the Act, Rules as well as bye-laws so that these societies may be able to play an increas-

ingly important role in the economic development of the country.

- (i) Credit;
 - (ii) Marketing;
 - (iii) Processing;
 - (iv) Irrigation;
 - (v) Dairying;
 - (vi) Farming;
 - (vii) Small scale and Village and other Industries;
 - (viii) Consumers;
 - (ix) Labour contract, Construction and Housing;
 - (x) Transport, etc.
- (d) To prepare standard sets of bye-laws which would facilitate the proper and smooth working of the new types of societies which are sought to be encouraged under the changed economic and social policy, and
- (e) To consider other related matters.

3. Meetings of the Committee.—Some of the members of the Committee met informally at New Delhi on 5th July, 1956, and agreed that

- (i) an objective analysis of the Act, rules and bye-laws in force in the different States should be made, and
- (ii) a questionnaire should be issued by the Committee inviting replies thereto.

4. The first meeting of the Committee, held under the Chairmanship of Shri S. T. Raja, drew up a questionnaire (Appendix II) on the points referred to in the terms of reference and decided to issue it to the persons, institution and authorities referred to in Appendix III.

The questionnaire was issued on 1st August 1956. A list of persons, institutions and authorities, who sent their replies is given at Appendix 'IV'.

5. The Committee held its second meeting at New Delhi on 17th October, 1956 by which date only a few replies to the questionnaire had been received. At this meeting, the Committee considered some of the broad principles to be adopted in modifying the existing co-operative laws and decided to proceed further when more replies were received.

6. The third meeting of the Committee was held at New Delhi from 6th to 8th March, 1957 when the Committee was in possession of most of the replies to the questionnaire received from various quarters. The suggestions for modifications in the co-operative law contained in these replies were considered in the light of the objective study, which had been made in the meanwhile, of the Co-operative legislation in force in the different States. At this meeting, the Committee had also the benefit of the draft of a model Co-operative Societies Act, prepared by one of its members, Prof. M. D. Vidwans. With such valuable material before them, the Committee was able

to lay down the broad principles on which model Co-operative Societies Act, rule and bye-laws of important types of co-operative societies should be based incorporating in them the recommendations of the Rural Credit Survey and providing the necessary legal framework for co-operative societies to discharge the responsibilities developing on them under the Second Five Year Plan. The Committee also examined the various factors which caused delays and bottlenecks in the working of co-operative societies with particular reference to registration of societies, amendments to their bye-laws and the procedure for obtaining loans and took decisions on how best to eliminate such delays.

7. In the light of the decisions taken at this meeting, drafts of model Co-operative Societies Bill, rules and bye-laws of two types of co-operative societies viz., large-sized primary agricultural credit societies and primary marketing societies were prepared and discussed at the fourth meeting of the Committee held at New Delhi from 4th to 7th April, 1957. It was agreed that the drafts should be revised in certain respects and placed for the consideration of the Committee at its next meeting. Shri S. K. Hiranandani kindly agreed to supervise and direct the revision.

8. The Committee held its fifth meeting at Mussoorie from 2nd to 5th May, 1957 at which the revised drafts of the Model Bill, rules and bye-laws of the two types of societies were considered. At the final meeting of the Committee held at New Delhi from 24th to 26th May, 1957 the draft report, Model Bill, rules and bye-laws were considered and finalised.

9. **Acknowledgment.**—In drafting the Model Bill, Rules and Bye-laws, apart from the very valuable services rendered by our esteemed colleagues, Shri S. K. Hiranandani and Shri M. D. Vidwans, the Committee had the benefit of the advice of Shri B. N. Mehta, Officer-in-charge Legal Division, Reserve Bank of India. The Committee is very thankful to Shri B. N. Mehta for the valuable advice and assistance given by him so ungrudgingly and to the Reserve Bank of India for making his services available in the deliberations and the work of the Committee. The Committee is also very thankful to the officers and staff of the Agricultural Credit Department of the Reserve Bank and particularly to Dr. C. D. Datey, Assistant Chief Officer of that department who did very valuable work in the preparation of the various drafts. Special mention must also be made of the excellent work done by Shri R. Bhardwaj, I.A.S., and Shri B. M. Chitnis, Secretary and Assistant Secretary respectively of the National Co-operative Development and Warehousing Board and of Shri Y. G. Dharmadhikari, Special Officer attached to the Committee. Finally, we have to acknowledge with thanks the work done for the Committee by Shri M. P. Bhargava, Cooperation Adviser, Government of India, Ministry of Food and Agriculture, who acted as Member Secretary of the Committee.

REVIEW OF CO-OPERATIVE LEGISLATION IN INDIA

The following may be regarded as important landmarks in the history of Co-operative Legislation in India :

1. The Co-operative Credit Societies Act, 1904.
2. The Co-operative Societies Act, 1912.
3. The Constitutional Reforms, 1919.
4. The attainment of Independence by India and the merger of Princely States, 1947.
5. The Report of the All-India Rural Credit Survey. 1954, and
6. The Second Five Year Plan, 1956.

2. **First phase.**—Studies made by Sir Fredric Nicholson into the possibilities of introducing a system of agricultural or other land banks in Madras and by Mr. Duperneux in Uttar Pradesh towards the close of the last century, and the report of the Famine Commission, 1901, pointed to the need for introducing co-operation as a means to save agriculturists from the usurious rates of interest they were required to pay to moneylenders on their borrowings and led to the passing of the first legislation on co-operation, viz., the Co-operative Credit Societies Act, 1904. In their introductory resolution, the Government of India observed that, "Legislation was required to take co-operative societies out of the operation of the general law on the subject and to substitute provisions specially adapted to their constitution and objects. In the second place, it was desirable to confer upon them special privileges and facilities, in order to encourage their formation and assist their operations; and, thirdly, it was necessary to take such precautions as might be needed in order to prevent speculators and capitalists from availing themselves, under colourable pretences, of privileges which were not intended for them". The Act of 1904 was based largely on the English Friendly Societies' Act. It was a simple enactment, as the framers of the Act were aware that the measure had to deal with a large mass of ignorant agriculturists in the country, who would not be in a position to understand the complicated provisions of the Companies' Act. The Act was elastic and left sufficient latitude to State Governments to frame suitable rules for the control and development of the Co-operative Movement in their respective areas.

3. **Second phase.**—It was, however, soon found that the Act was restricted in its scope in that it permitted registration of primary credit societies alone and left non-credit societies and federal organisations of primary co-operative credit societies out of its purview. These shortcomings were removed by the Co-operative Societies Act, 1912, which, however, retained the simplicity and elasticity of the earlier Act.

4. **Third phase.**—Co-operative legislation entered upon its third phase with the Constitutional Reforms of 1919 under which co-operation became a transferred subject. Some of the States, where the Co-operative Movement had made considerable progress, found that

the many-sided developments which it had attained could not be adequately served by the simple 1912 Act. Bombay gave a lead in this regard and passed a new Act, which came into force in 1925. It was followed by Madras, Bihar, Orissa and Bengal, which passed their own Acts in 1932, 1935 and 1940 respectively. Although new laws were thus enacted in these States, the essential features of the 1912 Act were still retained in every one of them. From 1919 onwards various All-India and Provincial Committees examined the working of co-operative societies and made a number of recommendations for their improvement and development. Some of these recommendations involved amendments to the existing Co-operative Societies Act with the result that the 1912 Act which continued to be in force in some States, as well as the new enactments passed in other States, were amended from time to time by the Provincial Legislatures to give effect to the recommendations.

5. Post-Independence Period.—The attainment of independence by the country in 1947 led to the emergence of new States in the Indian Union formed largely by the integration of several Princely States. In some of these, as for instance in Saurashtra which was formed by the merger of several hundred small Princely States, there was no legislation governing co-operatives. In others like Madhya Bharat, the legislation covered only a part of the new State. In still others, as in Hyderabad and Mysore, although legislation on the subject did exist, the need for bringing it in the line with corresponding legislation in the former British Provinces was soon felt. As a result, therefore, from 1947 to 1954 several of the new States either adopted the 1912 Act or such other Act as was in force in another State, or enacted new legislation, which was based more or less on the existing legislation in force in States, like Bombay or Madras.

6. All-India Rural Credit Survey Report.—The Report of the Committee of Direction of the All-India Rural Credit Survey, appointed by the Reserve Bank of India, was published in December, 1954. The recommendations of the Committee were generally accepted by non-official cooperators who met in a Co-operative Congress at Patna in March, 1955. This was followed by the first conference of State Ministers in-charge of Co-operation held at New Delhi in April, 1955 where it was agreed that schemes of cooperative development under the Second Five Year Plan should be drawn up to give effect to the recommendations contained in the Rural Credit Survey Report. In order to implement these recommendations and to facilitate the implementation of the schemes of co-operative development under the Second Five Year Plan and also to simplify, rationalise and modernise the existing laws relating to co-operative societies, this Committee on Co-operative Law was appointed by the Government of India.

The 1912 Act

7. Principal features of the 1912 Act.—A list of all the Co-operative Societies Acts in force in the country is given in Appendix V. As all these Acts retain the essential features of the 1912 Act, it

will be worthwhile to recount here some of the important provisions in that Act.

(i) The State Government may appoint a person to be Registrar of Co-operative Societies and may appoint persons to assist such Registrar and confer on such persons all or any of the powers of the Registrar.

(ii) A society which has as its objects the promotion of the economic interests of its members in accordance with cooperative principles and a society established with the object of facilitating the operations of such a society, could be registered under the Act with or without limited liability; but unless the State Government otherwise directs, the liability of a society of which another society is a member, has to be limited and the liability of a society whose primary object is to raise funds to be lent to its members and the majority of whose members are agriculturists, has to be unlimited.

(iii) A society consisting of individuals only must have at least ten members who have attained the age of majority.

(iv) No amendment of the bye-laws of a society is valid unless it is registered by the Registrar who has to satisfy himself that the proposed amendment is not contrary to the Act or the rules.

(v) In an unlimited liability society, one member will have only one vote. In a limited liability society, one member may have as many votes as may be laid down in the bye-laws.

(vi) No member can have more than one-fifth of the total share capital in a limited liability society or can have or hold shares exceeding Rs. one thousand in such a society.

(vii) Subject to the prior claim of the Government in respect of land revenue, or any money recoverable as land revenue, or of a landlord in respect of rent, a society is entitled in priority to other creditors to enforce any debt or outstanding demand due to the society from a member, upon the crops or cattle or agricultural implements, etc.

(viii) A society has a charge upon the shares, deposits etc. of a member with the society in respect of any debt due from such a member.

(ix) The liability of a past member for the debts of a society continues for a period of two years from the date of his ceasing to be a member, whereas that of the estate of a deceased member continues for a period of one year from his death.

(x) The societies are granted exemption from compulsory registration of instruments relating to shares, debentures, and other documents.

(xi) The Central Government or the State Government may grant exemption to cooperative societies from the payment of income-tax, stamp duties, registration fees, etc.

(xii) A society may receive deposits and loans from persons who are not members only to such extent and under such conditions, as may be prescribed by the rules, or laid down in the bye-laws.

(xiii) A society may invest or deposit its funds in a Government Savings Bank, in trustee securities, in shares of other cooperative societies or in any bank approved by the Registrar.

(xiv) One-fourth of the net profits of a society must be carried to its reserve fund.

(xv) The Registrar on his own motion or on the application of one-third of the members, can undertake an inquiry into the constitution and working of a society.

(xvi) On the application of a creditor the Registrar can undertake an inspection of a cooperative society.

(xvii) After an enquiry or inspection or on the application of three-fourths of the members of a society, the Registrar can cancel the registration of the society.

(xviii) On the order of cancellation of registration taking effect, the Registrar has to appoint a person to be liquidator of the society.

(xix) The State Government can exempt any society or any class of societies from any of the requirements of the Act as to registration.

(xx) The State Government can exempt any society or any class of societies from any of the provisions of the Act.

8. Existing laws.—The existing laws governing the working of co-operative societies and in force in the different States may be said to follow broadly one of the following Acts :—

1. The Co-operative Societies Act, 1912, (Central Act 2 of 1912).
2. The Bombay Cooperative Societies Act, 1925,
3. The Madras Co-operative Societies Act, 1932, and
4. The Bengal Co-operative Societies Act, 1940.

We have already indicated the important provisions of the 1912 Act. In the following paragraphs we will indicate in what respects the other three Acts referred to above differ from the 1912 Act.

1. *The Bombay Co-operative Societies Act, 1925 :*

9. The Bombay Co-operative Societies Act, as it exists to-day, contains the following important additions and modifications :

(i) It introduces a classification of societies according to the purposes for which they are registered.

(ii) Whereas the 1912 Act made unlimited liability obligatory for primary agricultural credit societies, the Bombay Act permits either limited or unlimited liability for such societies.

(iii) The Bombay Act contains detailed provisions for the division and amalgamation of societies as also for their conversion from one class to another class.

(iv) The 1912 Act left the question of votes of members of limited liability societies to be decided by the bye-laws of such societies. The Bombay Act introduced the principle of one member one vote, irrespective of whether the society was based on limited or unlimited liability.

(v) The 1912 Act fixed a uniform limit of shareholding for all societies, while the Bombay Act fixed certain limits for certain classes of societies.

(vi) The 1912 Act provided for only a prior claim in favour of co-operative societies in respect of sums due from a member. The Bombay Act, contains provisions which create a first charge on the

agricultural produce of a member in respect of any loan taken by him from a co-operative society. Further, it requires borrowers to declare their immovable properties and specify those against which they create a charge in favour of the society for loans drawn from it.

(vii) The Act provides for deductions from salaries of employees by the employer in respect of any loan by an employee from an employees' credit society.

(viii) The Act empowers the State Government to grant financial assistance to societies by contributing to their share capital, by guaranteeing debentures issued by them and by guaranteeing the repayment of loans, etc.

(ix) Whereas in the 1912 Act, the procedure regarding the settlement of disputes was left to the rules, in Bombay the Act itself lays down a procedure for this purpose.

(x) The 1912 Act provided only for the cancellation of the registration of a society. The Bombay Act introduces the winding up of a society before the cancellation of its registration on the lines of the Indian Companies Act.

(xi) The Bombay Act empowers the Registrar to assess damages against delinquent promoters or persons in charge of the management of societies.

(xii) It provides for the constitution of a Co-operative Tribunal with powers to modify, correct or remit awards given by arbitrators.

(xiii) It provides for compulsory contribution from co-operative societies to the Educational Fund of the Provincial Co-operative Institute under certain conditions.

(xiv) It has a separate Chapter on Co-operative Farming Societies. A special feature of this Chapter is that a scheme of co-operative farming accepted by a certain percentage of farmers becomes binding on the rest.

(xv) The Act enables companies and registered partnership firms to become members of co-operative societies.

(xvi) Under a recent amendment to the Act, the State Government is empowered to bring about amalgamation of societies compulsorily.

II. The Madras Co-operative Societies Act, 1932 :

10. The Madras Co-operative Societies Act contains the following special features :

(i) With a view to promoting speedy collection of arrears in co-operative societies, it provides the Registrar with powers to recover amounts due to societies under decrees or awards by the attachment and sale of property.

(ii) It provides for the supersession of the committee of a co-operative society, if the Registrar is satisfied that it is not functioning properly.

(iii) It enables the financing bank to inspect the books and accounts of a society indebted to it.

(iv) Under the Act, the liquidator has been given larger powers to wind up the affairs of a society expeditiously under the guidance of the Registrar.

(v) The Act provides for the grant of loans by a society to another society with the permission of the Registrar, although it may not be a member of the former. Similarly, the Act permits grant of loans by a society to a depositor against the security of his deposit although he may not be a member.

(vi) Like the Bombay Act, the Madras Act also provides for the amalgamation and dissolution of societies and, by a recent amendment, even compulsory amalgamation of societies has been provided for under certain circumstances.

(vii) Although co-operative land mortgage banks are registered under the Co-operative Societies Act and are subject to the provisions of that Act, the working of such banks is also governed by the Madras Land Mortgage Banks Act, 1934. The distinctive features of this Act are :

- (a) It empowers the central land mortgage bank to issue debentures on the security of the mortgages and other assets transferred to it by the primary land mortgage banks.
- (b) It provides for the appointment of a Trustee to safeguard the interests of debenture holders and of the State Government. The repayment of principal and the payment of interest on the debentures issued by the central land mortgage bank are to be guaranteed by the State Government.
- (c) Under that Act, a mortgage in favour of a primary land mortgage bank automatically stands vested in the central land mortgage bank.
- (d) The Registrar, on an application from a land mortgage bank, is empowered under that Act to distrain and sell the produce of the mortgaged land including the standing crops thereon to recover arrears in the instalments due to a land mortgage bank.
- (e) The Act enables the land mortgage bank to foreclose the mortgage and sell the mortgaged property without the intervention of civil court.

III. The Bengal Co-operative Societies Act, 1940 :

11. The Bengal Co-operative Societies Act, 1940 is more elaborate than the Bombay and Madras Co-operative Societies' Acts. Some of its distinguishing features are given below :

(i) The financing bank to which a society is indebted, can direct the latter to amend its bye-laws.

(ii) A co-operative credit society can serve notice on any creditor of a member requiring him to furnish a written statement of his claims against the member. When a member wants to borrow from any person other than a society, he has to send a notice to that effect to the society. Further, a credit society may require the landlord of a borrowing member to inform it of any rent suit that has been instituted by him against such member.

(iii) The period of limitation for filing a suit to recover any sum due to a co-operative society by a past member is to be reckoned from the date on which a member ceases to be a member of the society.

(iv) Any debt or outstanding demand due to a co-operative society by any member is to be a first charge upon crops or agricultural produce of such member, if their production has been financed out of a loan from the society, or upon agricultural implements and cattle, if these have been purchased out of a loan from the society. The first charge, however, will not affect the claims of any bona fide purchaser or transferee for value.

(v) An irrigation society can recover water rates even from non-members under certain conditions.

(vi) A member has to furnish the society with a full, true and accurate statement of his assets and liabilities.

(vii) The Registrar is empowered to direct the conditional attachment of properties of a co-operative society or its members, under certain conditions.

(viii) There is a special chapter in the Act for co-operative land mortgage banks. The provisions in this chapter are based largely on the Madras Land Mortgage Banks Act, 1934.

12. Need for Revision.—As indicated earlier, the implementation of the recommendations of the Rural Credit Survey and of the schemes of co-operative development under the Second Five Year Plan require revision of the existing Co-operative Societies Act and the rules made thereunder in all States. Further, the Reorganization of States has brought together areas which are being governed by different Acts and rules. In a State like Bombay, for instance, there are three or four different Acts in force. The picture is similar in Madhya Pradesh, Mysore, Andhra, Madras, Rajasthan, Kerala and West Bengal. These States will soon have to seek uniformity in the laws governing co-operative societies in their different constituent parts. Under these circumstances, we feel that the present is a very opportune moment for revising the Co-operative Societies Act in force in the different States with a view to bringing about as large a degree of uniformity in the legislation governing co-operative societies as is possible throughout the country.

13. Model Bill, Rules and Bye-laws.—Taking into consideration the Central Act of 1912 and the various State Acts, we have prepared a Model Bill (Appendix VI). While the Model Bill is broadly based upon the 1912 Act, we have borrowed several useful provisions from various State Acts which we think can be uniformly applied in all the States. We have also added a new chapter VI relating to State partnership in Co-operative Societies which gives effect to the recommendations in this behalf of the Rural Credit Survey Committee. We recommend that every State should enact a new law or modify its existing law on the lines of the Model Bill. We recognise that in some States the local conditions may warrant certain modifications in the Model Bill. We think such changes can easily be incorporated in the Model Bill without disturbing its broad pattern. We have also prepared Model Rules (Appendix VII) which we commend to State Governments for adoption with such local variations as may be necessary.

CHAPTER III

MODEL COOPERATIVE SOCIETIES BILL

1. In this chapter, we propose to deal with the important provisions of the Model Bill.

2. **Preamble.**—The Model Bill recommended by us does not contain a preamble. Several of the replies to our questionnaire suggest that the principle of State partnership may be embodied in the preamble as it is one of the most important recommendations of the Rural Credit Survey Report. Since laws passed after the enactment of the Constitution do not generally contain any preamble, we consider that there need not be any preamble to the Cooperative Societies Bill also. The statement of objects and reasons which will be published along with the Bill, will contain references to the principle of State partnership in cooperative societies and State participation in their management, and also to the principle of self-help and mutual help and to the objectives of promoting better living, better business and better methods of production already embodied in the preambles of most of the Cooperative Societies Acts.

3. **Appointment of Registrar.**—Most of the Cooperative Societies Acts provide for the appointment of a person to be the Registrar of Cooperative Societies for the State, or for any portion of the State, and also for the appointment of persons to assist the Registrar and for the conferment on such persons of all or any of the powers of the Registrar. We consider that it was the intention of the framers of these Acts that, persons on whom powers of the Registrar are conferred should be assistants to the Registrar and should not function independently of him. There has, however, been a tendency in some States to confer the powers of the Registrar on persons who do not necessarily assist the Registrar, but work independently of him. For instance, in one State the cane unions are under the Cane Commissioner who has been invested with powers of the Registrar of Co-operative Societies which are exercised by him without reference to the Registrar. Similarly, in some States, the Director of Industries has been vested with the powers of the Registrar for purposes of cooperative societies for small-scale and cottage industries. For coordinated control and unified direction, we consider that it is desirable to keep the cooperative financing agencies and the societies financed by them under the administrative control of a single authority. It is, of course, understood that other departments of the State will continue to render technical advice and assistance in matters other than those connected with the administration of the Cooperative Law. We have made this position clear in clause 3 of the Model Bill that persons on whom powers of the Registrar are conferred shall work subject to the general superintendence and control of the Registrar. We have also deleted the provision existing in the 1912 Act about the appointment of a Registrar for a portion of the State, as such a provision would be inconsistent with the concept of a single authority for the purpose of guiding, supervising and controlling the working of cooperative societies in the entire State.

4. The Bengal and Bihar Cooperative Societies Acts reserve some powers under the Act to be exercised only by the Registrar and thus preclude the conferment of certain powers under the Act on persons appointed to assist the Registrar. We feel that such restrictions will saddle the Registrar with considerable administrative work at a time when he should have enough time and freedom to shape the general policies governing cooperatives. It may not be necessary to specify in the law the powers which may be exercised exclusively by the Registrar. The same result can be secured by the State Government not conferring the powers of the Registrar under certain clauses to persons appointed to assist him. Clause 3 of the Model Bill has been so worded as to leave the matter to be decided by the State Government. We do, however, feel that increasing decentralisation of power is necessary and inevitable to meet the demands of a rapidly expanding cooperative sector and that the State Governments will confer necessary powers on officers of the Cooperative Department at district and lower levels.

5. **Conditions of registration.**—Under the 1912 Act, a society which complied with the provisions of the Act and the rules and whose bye-laws were not contrary to the Act and the rules, could be registered by the Registrar. We find that these provisions have not been adequate in preventing the registration of societies which are not genuinely cooperative in character. Further, these provisions do not give the Registrar the necessary powers to refuse the registration of a society if it does not have reasonable chances of success. Moreover, the attainment of social justice being one of the objectives of the Constitution, a cooperative society enjoying several privileges from the State should satisfy the requirements of the essential principles of social justice. It should, therefore, be possible for the Registrar to refuse the registration of a cooperative society, if in his opinion the proposed society does not satisfy any one of the above requirements. Clause 7 of the Model Bill has specified all the above conditions as the minimum necessary for the registration of a cooperative society.

Liability of an Agricultural Credit Society.—The Model Bill under clause 5 (2)(b) provides, as a general rule, for the unlimited liability of the members of an agricultural credit society. There was, however, another view forcefully expressed in the Committee that making unlimited liability compulsory would deter persons from becoming members of cooperative societies and that promoters should be free to decide whether their liability should be limited or unlimited. It was agreed that State Governments might consider this view and carry out suitable modifications in clause 5 of the Model Bill, if they so desire.

6. **Amendment of the bye-laws of a co-operative society.**—Under the 1912 Act, the minimum conditions for the registration of an amendment of the bye-laws of a cooperative society were the same as for the registration of a society. It is necessary that any amendment of the bye-laws should not only be consistent with the Act and the rules, but, in addition, should satisfy the requirements of sound business and of the principles of social justice. Accordingly, clause 12 of the Model Bill provides for these minimum conditions for the amendment of the bye-laws of cooperative societies.

7. **Amalgamation, division etc. of cooperative societies.**—The 1912 Act did not provide for the amalgamation or division of cooperative societies. Subsequent Acts, like the Bombay and Madras Cooperative Societies Acts, provide for these. The Madras Cooperative Societies Act, 1932, however, has no provision under which a society may transfer its assets and liabilities to another society which is willing to take them. Moreover, the existing provisions in the various Acts are dilatory and the procedure laid down is so elaborate as to make amalgamation of cooperative societies, or transfer of assets and liabilities from one society to another, prolonged and difficult. The Act should provide for a procedure which will not only be simple, but will also bring about amalgamation as quickly as possible, when two cooperative societies agree to merge with each other. The Madras Cooperative Societies Act, 1932, for instance, requires a preliminary resolution to be passed by each of the societies and a final resolution to be passed jointly by the two societies. It should be possible to dispense with one of the resolutions and to reduce the period of notice during which a member or a creditor may withdraw his shares or deposits from a society. We have accordingly provided for a simple procedure for amalgamation, division etc., of cooperative societies in clause 14 of the Model Bill.

8. **Conversion of societies.**—Section 15 A of the Bombay Cooperative Societies Act, 1925 provides also for a society converting itself into a class of society the objects of which are materially different from those under which it has been classified under the Act. The procedure for conversion is the same as for division or amalgamation of societies. We have not incorporated a provision in the Bill on the lines of the above section of the Bombay Act. This purpose can be served by the society passing necessary amendments to its bye-laws. If however, any State Government feels a special need for a separate provision in the Act, it could consider a suitable provision on the lines of section 15A of the Bombay Act.

9. **Compulsory amalgamation of cooperative societies.**—It has been suggested that the Cooperative Societies Act should provide for the compulsory amalgamation of cooperative societies, in cases where such amalgamation is in the interests of the Cooperative Movement in general or of the members of cooperative societies in particular. We have noted that the Bombay and Madras Cooperative Societies Acts have been amended recently to provide for such compulsory amalgamation under certain circumstances. We observe in this connection that the Rural Credit Survey Committee have not suggested amalgamation of primary credit societies compulsorily with a view to establishing large-sized credit societies. They stated: "In making this recommendation regarding optimum size of primary societies, we should not be understood as suggesting that all existing agricultural credit societies should, without distinction be brought under schemes of reorganization. In particular, there should be no interference with societies which are working satisfactorily. Reorganization of existing societies should be attempted only where necessary and as and when this can be suitably done, i.e., without considerable dislocation. A phased programme of reorganization confined to contiguous societies which would gain by amalgamation would therefore be appropriate". Therefore, what is

necessary is not a provision in the Act which will facilitate amalgamation of societies against the wishes of their members, but a provision that will facilitate such amalgamation if the members so desire. We feel that the simple procedure for amalgamation suggested by us in clause 14 of the Model Bill should be sufficient to meet the requirements of the situation.

10. Persons who may become members.—The 1912 Act provides for admission as members in cooperative societies of individuals who have attained the age of majority and of other cooperative societies. It does not, however, provide for the admission of the State Government as a member. Further, we think that a cooperative society should not admit companies, partnership firms etc. as members, for, their motive force is a desire for profits rather than the spirit of service. Therefore, in clause 16 of the Model Bill we have restricted membership in a cooperative society to individuals who are competent to contract, other cooperative societies and the State Government only.

11. Nominal and associate members.—Some cooperative societies, particularly marketing societies have to admit as their members merchants or traders who have business relations with them, so that any dispute between them and the society may be referred to the Registrar, for disposal instead of to the Civil Courts. At the same time, they are not to be given any voice in the management of the society or any share in its profits. We feel that it is necessary to make express provision in this behalf in the cooperative societies Act. Similarly, cooperative stores societies in schools, may have to admit as 'associate members' minors who are not competent to contract, so as to introduce them to cooperative ideals and methods. Hence Section 17 of the Model Act provides for the admission by a cooperative society of a 'nominal' member who shall not have the right to vote and who shall not be entitled to any share in the assets or profits of the society. The nominal and associate members, however, will be entitled to such rights and privileges as may be specified in the Model Bill, Rules or the bye-laws of a society.

12. Vote of members.—"One member's one vote" has been widely recognised as one of the cardinal principles of cooperation. Further, in a cooperative society which is a democratic institution, every member is expected to take personal interest in the affairs of the society which will scarcely be possible if voting is permitted by proxy. We have, therefore, made it clear in clauses 19 and 20 of the Model Bill that every member will have only one vote and that voting by proxy will not be permitted.

13. Restrictions on holding of shares.—Under the 1912 Act, no member, other than a cooperative society, could hold more than one-fifth of the total share capital or own shares exceeding Rs. 1,000. In keeping with the present-day requirements we have enhanced the limit of Rs. 1,000 to Rs. 5,000. When the State becomes a partner in a cooperative society, the exemption from the application of the restrictions granted to cooperative societies has to be extended to the Government also. Further, the limitation of Rs. 5,000 may unnecessarily restrict the operations of certain types of societies such as cooperative housing societies, cooperative sugar factories etc. We

have, therefore, provided in clause 21 of the Model Bill that restrictions on the holding of shares will not be applicable to the State Government and that the State Government may relax these restrictions by notification in the official Gazette in respect of any class of cooperative societies.

14. Transfer of interest on death of member.—It will be necessary to provide in the Act for a minor, inheriting the shares of a deceased member, to hold the shares in suspense, until he attains majority. We have accordingly provided in clause 23 of the Model Bill for this contingency.

15. Liability of a deceased member.—Under the 1912 Act, the liability of the estate of a deceased member in regard to the debts of the society continued for one year after the death of such member. In our opinion as in the case of past members, such liability of a deceased member should also continue for a period of two years from the date of his ceasing to be a member as provided in the Bombay and Madras Cooperative Societies Acts. Further, in view of the fact that liquidation proceedings necessarily take time, we consider that the liability of a deceased member for the debts of a liquidated society should continue until the liquidation proceedings are over, as already provided in Section 48 A of the Bombay Cooperative Societies Act, 1925.

16. Powers of the general body.—There is no provision in the 1912 Act defining the powers of the general body of a society. In our view such an important provision should find a place in the Act and we have accordingly provided for it in the Model Bill. We have made it obligatory for the general body of a cooperative society to meet at least once a year, and provided for special general meetings to be requisitioned by the Registrar or by certain number of members of a society. If a meeting so requisitioned is not convened, the Registrar should be empowered to convene the meeting himself. In some societies where membership is large or distributed over a wide area, the ordinary general body cannot easily meet or secure adequate attendance and therefore, we have provided in its place for a smaller body consisting of delegates. Clauses 25, 26 and 27 of our Model Bill make the necessary provisions in this regard.

17. Nominees of the Government on the committee of a cooperative society.—The Rural Credit survey Report has recommended that the State Government should be allotted not more than one-third of the seats on the Board of Directors of the cooperative society to whose share capital it has made contribution. This recommendation was subsequently considered in the Cooperative Congress held at Patna in March 1955 which decided that Government nomination should not be more than one-third of the number of members on the Board of Directors or three directors whichever was less. Apart from Government contribution to the share capital, there are cooperative societies which may receive substantial financial assistance from the State Government in the form of guarantee for debentures issued or loans obtained. We are of the view that Government nomination may extend to these cases as well and have drafted clause 28 of the Model Bill accordingly.

18. Power to veto or give directives.—The Rural Credit Survey Committee recommended that Government should, on certain specified matters, have over-riding powers, for example, power to reverse or modify decisions on those matters or power to impose decisions of its own so far as they relate to those items. This recommendation was discussed at the Patna Cooperative Congress which recommended that the special powers mentioned above should be confined only to the loan policy of an institution and to matters falling within the category of its financial policy. Both the Rural Credit Survey Committee and the Patna Congress were of the view that Government should not interfere in the normal or day to day administration of a cooperative society. We are in agreement with these views and suggest that it would be enough if the State Government or the Registrar take suitable administrative measures in this behalf and have therefore not considered it necessary to make statutory provision either in the Model Bill or the Model Rules.

19. Supersession of a Committee.—There is no provision in the 1912 Act for the removal by the Registrar of the committee of a co-operative society, if it mismanages its affairs. Such a provision exists either in the Act or in the rules in most States. Under the Punjab Co-operative Societies Act, however, such power is restricted only to those societies in which Government has major financial interest. We consider that it is necessary to invest the Registrar with power to supersede the committee of any society under certain circumstances and that this power need not be confined only in respect of such societies in which Government has major financial interest.

20. Taking charge of records etc.—It is sometimes difficult for a new committee liquidator or an Administrator to secure possession or take charge of records, properties etc. of a co-operative society from the out going committee. We have, therefore, included in clause 30 of the Model Bill a provision, on the lines of section 49(5) of the Travancore-Cochin Co-operative Societies Act.

21. Charge of Co-operative Societies.—The Rural Credit Survey Report recommended as under :—

“We endorse the recommendation of the Agricultural Finance Sub-Committee that, while credit societies should not ordinarily attempt mortgage finance, they should be enabled to have a statutory charge on the crop for the seasonal finance given to buttress personal security. When such a charge has been created by the borrower, it should not be alienable without the permission of the society. Prohibition of this kind was, for example, incorporated in the Bombay Co-operative Societies’ Act when it was amended in 1948. We suggest that State Governments should consider the desirability of enacting similar legislation so as to induce the prompt repayment of crop loans given by co-operative societies.”

22. In the light of the above recommendations we have examined carefully the provisions of section 24 of the Bombay Co-operative Societies’ Act. We are, however, not sure how far the provisions of this Section are sufficient to safeguard the interests of co-operative credit societies which adopt the crop loan system recommended

by the Rural Credit Survey. Under the Bombay Co-operative Societies Act a society can have a charge only "upon crops or other agricultural produce raised in whole or in part with a loan taken from the society". To enforce the charge, it should first be proved that such crop was wholly or partly raised with the loan amount. Secondly, in the event of a failure of a member to repay his loan out of the produce of the year to which the loan relates, it may not be possible for the society to proceed against him for the recovery of the overdue loan out of the crops of subsequent years. Thirdly, under Sections 60 and 61 of the Code of Civil Procedure, certain properties of agriculturists as also a portion of the agricultural produce as may be allowed by the State Government, are exempted from attachment. We have taken all these factors into consideration in drafting clause 31 of the Model Bill.

23. Deduction from salary to meet society's claim in certain cases.—The working of employee's co-operative credit societies can be greatly facilitated if the employer deducts from the salary of an employee every month the instalment due from him towards a society's loan and pays it to the society. There is no provision in this behalf in the 1912 Act, or in the Acts in force in most States. In the absence of such a provision, an employer cannot deduct an instalment due from a member from salary or wages payable to him. We find that the Co-operative Societies Acts in some States contain a provision in this regard and have incorporated it in clause 32 of the Model Bill.

24. Exemption from certain taxes, fees and duties.—Co-operative Societies Acts in force in various States enable the Central Government or the State Government to grant exemption to co-operative societies from the payment of income-tax, stamp duties, registration fees etc. We feel that the scope of such exemption may, if the State Government so desires, be extended to cover certain other taxes also, particularly those which would tend to discourage co-operative enterprises. Accordingly clause 35 of the Model Bill will enable the State Government to exempt any class of co-operative societies from the payment of agricultural income-tax, the tax on sale or purchase of goods and the tax on professions, trades, callings and employments.

25. State aid to co-operative societies.—One of the principal recommendations of the Rural Credit Survey Report is that the State should take an active interest in promoting and encouraging co-operatives. In the words of that Report, the problem of rural credit "is not so much one of reorganisation of co-operative credit as of the creation of new conditions in which it can operate effectively and for the benefit of the weaker. The prevailing conditions cannot be transformed by the very persons who are oppressed and rendered weak by their existence. The forces of transformation have to be at least as powerful as those which are sought to be counteracted. Such forces can be generated not by co-operation alone but by co-operation in conjunction with the State". Clause 37 of the Model Bill gives effect to this recommendation by saying that it shall be the duty of the State Government to encourage and promote the Co-operative Movement in the State.

26. State partnership in co-operative societies.—State partnership was indicated by the Rural Credit Survey Report as the most efficacious method by which the State can promote and encourage co-operatives. As regards the manner in which such a partnership should be secured, the Rural Credit Survey Committee recommended that it may be direct or indirect. As regards indirect partnership it said as under :—

“At the apex level, the partnership would be direct, i.e., the State Government would directly contribute to the share capital of the institutions concerned. At the district level, the State partnership would be through the apex institutions; for instance, the State Government would provide funds to the apex institutions to enable them to contribute to the share capital of the institutions at the district level. At the primary level also, State participation would be indirect; it would take the form of similar contributions to the apex institutions to enable them to provide funds to the organisations at the district level, which in turn would contribute to the share capital of the institutions at the primary level. In certain cases, for example, marketing and processing societies, State partnership might be direct at all levels.” The Standing Advisory Committee on Agricultural credit of the Reserve Bank at its Fifth Meeting in January, 1956 discussed the implications of this recommendation. It recognised that no uniform formula could be prescribed in this regard and that in some States it might be necessary to provide for direct participation by Government at various levels including the primary level. According to that Committee, the main points to be ensured were that the State Government should be a partner in the sense of partaking in the “risk” of share capital and not as a mere creditor and that the apex banks’ position as a leader of a coherent structure should, if possible, be strengthened but in no case impaired.

27. Taking account of these recommendations, we have provided in Chapter VI of the Model Bill for direct as well as indirect partnership of the State in co-operative institutions. While direct partnership is simple and more satisfactory from the legal point of view, indirect partnership is a complicated affair, particularly where the nominal share-holder will be another co-operative society and not the Government and when the Government should nevertheless bear the risks of partnership in lieu of the nominal share-holder. We had, therefore, to devise the method of the “Principal State Partnership Fund” and the “Subsidiary State Partnership Fund” to give legal effect to the recommendations. Thus, under the provisions for indirect partnership in the Model Bill, the apex co-operative institution will receive moneys from the State Government and credit them to the “Principal State Partnership Fund”. It will draw from this Fund and purchase shares in its own name in the affiliated district or central institutions. It will also draw from this Fund and provide moneys to affiliated central or district institutions to enable them to take shares in primary societies affiliated to them. In the latter case, district or central institutions will credit the amount to a fund called the “Subsidiary State Partnership Fund” and utilise it for purchasing shares in their own name in affiliated primary co-operative institutions. In order to ensure that the State is truly a partner in the institutions to which its money is given and is not a mere creditor, the Model Bill gives Government a title

only to that amount of dividend which is declared by the society in which it has entered into direct or indirect partnership. It also casts on Government the responsibility to share the losses, if any, in the society in which it is a partner. To make State partnership effective in cases where indirect partnership is adopted, the purchases of shares from the "Principal State Partnership Fund" or the "Subsidiary State Partnership Fund" are subjected to the previous approval of the Government and the sums to the credit of these Funds are not treated as assets of the institution which holds them.

28. We have noted that in some States the Government have purchased shares in primary credit societies through central banks without the intervention of the apex bank. In such cases suitable modification will have to be made in the provisions of this Chapter.

29. **Other forms of State aid.**—The 1912 Act did not contain any provision enabling the State Government to provide financial assistance to co-operative societies in the form of loans, guarantees for loans, subsidies etc. Subsequent laws, such as the Bombay, Madras and West Bengal Acts, have a provision in this regard. As it is contemplated under the Second Five Year Plan that the State Government will give financial assistance to co-operative societies in several ways, we have embodied in clause 50 of the Model Bill, provisions of the Bombay Co-operative Societies Act with suitable modifications.

30. **Reserve fund.**—The proportion of the net profits to be carried to the statutory reserve fund, varies from State to State. In Bombay, for instance, a resource or purchase society has to carry 25 per cent. of its net profits to the reserve fund, while other societies have to carry only 10 per cent. In Madras, co-operative financing banks have to carry 33½ per cent. of their net profits to the reserve fund. In the Punjab, the proportion is 10 per cent. and in Bihar it is 35 per cent. Considering the different practices in different States, we are of the opinion that the contribution to the reserve fund out of net profits should not be less than 25 per cent. of such profits. We have provided for this in clause 53 of the Model Bill.

31. **Co-operative Education Fund.**—The Rural Credit Survey Report has laid considerable stress on the proper training of co-operative personnel. A provision has no doubt been made in the Second Five Year Plan for financing arrangements for training co-operative personnel under the auspices of the Government of India, the State Governments and the Reserve Bank of India. Even so, the primary responsibility in the matter should rest on the co-operative societies themselves. Suggestions have been made to the effect that every co-operative society should contribute a certain proportion of its net profits every year to a Cooperative Education Fund. The Bombay Cooperative Societies Act provides for compulsory contributions for co-operative education to the Bombay Provincial Co-operative Institute out of the net profits of a society under certain conditions. Provisions of similar nature exist in Madhya Bharat, Hyderabad, West Bengal, Assam, Orissa and Mysore. We feel that every co-operative society should be required by law to contribute to a Co-operative Education Fund. Accordingly, clause 53 of the Model Bill provides for such a contribution at a rate to be prescribed by the State Government.

32. Loans to depositors.—As in the 1912 Act, clause 56 of the Model Bill prohibits loans from co-operative societies to non-members except to another co-operative society which may obtain loans with the permission of the Registrar. In practice, it has been found necessary for co-operative credit societies, and particularly co-operative financing banks, to grant loans to depositors on the security of their deposits. Section 32(3) of the Madras Co-operative Societies Act has been incorporated in clause 56 of the Model Bill.

33. Provident Fund.—Some co-operative societies have established Provident Funds for the benefit of their employees. It is necessary that the Act should protect the interests of employees against the Provident Fund becoming part of the assets of the co-operative society. We have provided for this protection in clause 58 of the Model Bill.

34. Audit.—The Acts in force in most States provide for the audit of accounts of co-operative societies at least once in a year by the Registrar. In the Punjab, however, the Act lays down that the accounts of every society shall be audited at least once during any year through an authority or agency other than officers under the control of the Registrar. In Uttar Pradesh, audit is the responsibility of the Finance Department of Government. The First State Ministers' Conference held at New Delhi in April 1955 went into this question of the appropriate authority for the audit of co-operative societies and after considering the recommendation of the Rural Credit Survey Report in this regard, recommended that, audit should be under the Registrar of co-operative societies. The Fifth Meeting of the Standing Advisory Committee on Agricultural Credit of the Reserve Bank held in January, 1956, while endorsing this recommendation, expressed the hope that "even in those few States where audit had been taken out of the Co-operative Department, these arrangements would be reconsidered so that a system similar to that in force in most States would soon be adopted". The desire to keep audit beyond the purview of the Registrar of co-operative societies and his staff largely springs from an impression in some quarters that the Co-operative Department manages and affairs of co-operative societies. This impression is due to the fact that in some States the Registrars of co-operative societies are Presidents of State cooperative institutions and their deputies are Presidents of central co-operative institutions. It is also due to the fact that supervision over co-operative societies in some States is exercised by the Co-operative Department. It has, however, been recognised by the Government of India and by the State Governments that the presidentship of the State and central co-operative institutions should be handed over to non-official members of these institutions as early as possible. We also note that the Rural Credit Survey Report and the Reserve Bank of India have recommended that supervision over co-operative societies should be transferred to co-operative financing banks. In these circumstances, when audit is left in the hands of the Registrar there will be no occasion for the criticism that those who run or supervise co-operative societies are auditing their own accounts. The important point to be borne in mind in regard to audit is that the Registrar of co-operative societies, who is responsible under the law for the proper conduct of co-operative societies, cannot fulfil his responsibility satisfactorily unless he keeps in close touch with the working of these societies by getting

their accounts audited under his direction and control. If necessary, the audit staff of the Co-operative Department may be constituted into a distinct branch of that department under a Chief Auditor who will be responsible to and work under the control of the Registrar of co-operative societies. This ought to ensure that the audit of co-operative societies is free and fearless. We have accordingly provided in clause 59 of the Model Bill that the accounts of a co-operative society should be audited by the Registrar or caused to be audited by a person duly authorised by him.

35. At the conclusion of the audit of the accounts of a society it is customary for the Registrar to point out the defects revealed in audit to the society for rectification. We feel that it is necessary to empower the Registrar under the Act to give a directive to a co-operative society to rectify the defects indicated. We have provided for this in clause 60 of the Model Bill, on the lines of section 22A of the Bombay co-operative societies Act, 1925.

36. **Inspection.**—There is a provision in most co-operative societies Acts for the Registrar undertaking an inspection of the books of a society at the request of its creditors. In addition to this statutory inspection, it is customary for the Registrar, or persons authorised by him, to inspect co-operative societies periodically. We consider it desirable to give statutory recognition to this practice and have accordingly provided for it in clause 62 of the Model Bill.

37. **Surcharge.**—The Co-operative Societies Act, 1912 does not contain any provision regarding surcharge. In some States, the Registrar is given power in this behalf either under the Act or under the rules. The existing provisions in many Acts, however, restrict surcharge to acts for which a person is criminally liable. We are of the opinion that the power should be extended so as to cover not only such acts, but also those which involve mis-application of the funds of a co-operative society for purposes contrary to the Act, rules or the bye-laws and acts which involve gross negligence resulting in loss to the society. Clause 64 of the Model Bill is intended to cover all these cases. It has, however, been provided that an order of surcharge can be made only after an enquiry and after giving the person concerned a reasonable opportunity of being heard.

38. **Settlement of disputes.**—We have indicated earlier that the 1912 Act did not contain any provision regarding settlement of disputes in co-operative societies by compulsory reference to arbitration by the Registrar. However, some States made necessary provision in this regard in the rules. Subsequent legislation in some of the States made a provision in this behalf in the Act itself. Settlement of disputes by co-operative societies outside the civil or other courts is necessary to avoid prolonged and expensive litigation. We, therefore, feel that this important provision should find a place in the Act itself, and that it should be specifically stated that no court should have jurisdiction to entertain any suit or other proceeding in respect of such dispute. Further, doubts are sometimes expressed regarding what would constitute a dispute. It is, therefore, desirable to indicate the items which will be regarded as disputes. Clause 65 of the Model Bill has been made sufficiently comprehensive to cover the various aspects of this question.

39. According to clause 66 of the Model Bill, the Registrar may settle a dispute himself or appoint another officer of the Co-operative Department to do so or may appoint one arbitrator. The law in several States permits reference of disputes to three or more arbitrators, one each to be named by the parties to the dispute and one to be named by the Registrar to serve as chairman of the panel of arbitrators. As reference of disputes to more than one arbitrator, is likely to hinder a speedy settlement of disputes, we have not provided in the Model Bill for the reference to a panel of arbitrators of a dispute. We have noted in this connection that the Bombay Co-operative Societies Act, 1925 which originally provided for reference to a panel of arbitrators, has recently been amended to provide for reference to the Registrar or to a nominee of the Registrar.

40. **Winding up and dissolution of co-operative societies.**—The 1912 Act and the Madras Co-operative Societies Act 1932, do not recognise the winding up of a society as the first stage before its dissolution. This does not give an opportunity for the revival of the society which may be possible in some cases. Moreover under the 1912 Act and the Madras Co-operative Societies Act, 1932, a liquidator is appointed when the registration of a co-operative society is cancelled. The order of the Registrar cancelling the registration of a society takes effect on the expiry of the period allowed for an appeal and if such an appeal is preferred, only on the rejection of the appeal, we feel that such a position is not satisfactory because if a liquidator is not able to take into his custody the properties and assets of a co-operative society until the order cancelling its registration is confirmed, the Committee of the society may dissipate its assets during the interval, thus prejudicing the interests of creditors and members of the society. Such a situation can be prevented, if the Registrar is empowered to pass an order for winding up a society and appointing a liquidator forthwith. The liquidator can then take charge of the assets of the society immediately, although an appeal may be preferred against the order of winding up. When the appeal is pending, the liquidator can function more or less as a trustee on behalf of the creditors and the members of the society. In order to provide for such powers being vested in the liquidator and the Registrar, we feel that provision on the lines of the Companies Act may, with advantage be incorporated in the Co-operative Societies Act. Provisions for these matters has been made in clauses 67 and 68 of the Model Bill.

41. Some Acts do not empower the liquidator to effect compromises between creditors and members of the society and the society. We feel that such a power is necessary for expediting liquidation proceedings and have included it in the list of liquidator's powers in clause 69 of the Model Bill.

42. **Land Mortgage Banks.**—The Rural Credit Survey Report recommended the enactment of a law containing provisions for facilitating the working of land mortgage banks. Replies to the questionnaire issued by us have also emphasised this recommendation. We observe that barring a few States like Madras, Andhra Pradesh, Mysore, Madhya Pradesh and West Bengal, there is no special legislation on this subject. In Madras, Andhra Pradesh and Madhya Pradesh, there is a separate Co-operative Land Mortgage

Banks Act. In Mysore and West Bengal, there are special chapters on the subject in the Co-operative Societies Act itself. Even where there is a separate Act on land mortgage banks, such banks are registered under the Co-operative Societies Act in force in the States. and are subject to all the provisions in that Act. In view of this, we feel that there may be no special advantage in enacting a separate law on the subject and that the special facilities required by co-operative land mortgage banks may as well be provided for in a separate chapter in the Co-operative Societies Act. In the Model Bill, therefore, Chapter XI embodies the special provisions necessary for the successful working of co-operative land mortgage banks.

43. The Madras Co-operative Land Mortgage Banks Act, 1934, has served as the basis for similar legislation on the subject in other States. As indicated, in Chapter II of this Report, the Madras Co-operative Land Mortgage Banks Act, 1934 covers many of the important privileges and concessions recommended by the All India Rural Credit Survey Report. In view of this, by the All India Rural Credit Survey Report, however, some important provisions in the Madras Land Mortgage Bill is based largely on the provisions in the Madras Land Mortgage Banks Act. There are, however, some important recommendations in that Report which are not covered by the Madras Act. Firstly, the Rural credit Survey Report has recommended an important requisite for the success of a scheme of land improvement viz., of providing loans noted the basis of the existing value of lands but on the basis of the increased value anticipated as a result of improvements effected on them. To quote that Committee: "As regards this question, the point is that lands are not sufficiently valuable before the improvements are effected, and on this basis, the amount of finance which land mortgage banks can provide under their existing rules of valuation may often be inadequate. The need accordingly arises for some form of guarantee to cover the difference between the value before and after improvement. This guarantee can only come from Government; it will have to be for a specified period and cover the difference between the two values, viz., value before and after improvement". We have given effect to this recommendation, in clause 77 of the Model Bill. Secondly, the tendency of recent land reforms legislation is to fix a ceiling on holdings. Although such legislation may grant exemptions to co-operative societies from the operation of this clause, we consider it necessary to provide in the Co-operative Societies Act itself that nothing in such legislation shall apply to land mortgage banks in respect of the lands, which they may have to acquire in satisfaction of debts due to them. We have provided for this in clause 79 of the Model Bill.

44. **Execution of awards, decrees, orders and decisions.**—The most common agencies available to co-operative societies for execution of awards, decrees, orders etc. passed by the Registrar or arbitrators are the civil courts and the Revenue Department. We have indicated earlier that in addition to these modes of recovery, the Madras Co-operative Societies Act empowers the Registrar or any person subordinate to him to recover any amount due under a decree award or order made under the Act. Similar provisions exist in the Co-operative Societies Acts of Mysore, Orissa, Coorg and Jammu and Kashmir. The experience in respect of recovery of co-operative dues through the civil courts or the Revenue Department has not

been very encouraging and, therefore, we consider that in addition to the above modes, the Registrar should be empowered to execute decrees, awards etc. departmentally and we have incorporated a provision to this effect in clause 96 of the Model Bill.

45. Recovery of sums due under charge.—Reference has been made earlier to the charge created by a borrower in favour of a co-operative credit society for a loan taken by him for the purpose of raising crops. In order to make this charge effective, it is necessary to provide that dues covered by this charge may also be recoverable through the Revenue Department or the civil court or the Registrar. Clause 95 of the Model Bill accordingly empowers the Registrar to make an order on the application of a co-operative society in this behalf which can be executed like any other order or decree made under the Act.

46. Attachment before judgment.—It is necessary to empower the Registrar to pass an order of attachment of property before judgment in any proceedings under the Act, if the Registrar is satisfied that with a view to defeat or delay the execution of any order the person concerned is likely to dispose of the whole or any part of his property or is about to remove it beyond the jurisdiction of the Registrar. Clause 98 of the Model Bill makes such a provision.

47. Appeals, revision and review.—In all States excepting Bombay, an appeal against orders, decisions, awards etc. made under the Act can be presented either to the Registrar or to the State Government. With the important role assigned to co-operatives in schemes for agricultural credit and marketing under the Second Five Year Plan, the administrative responsibilities of the Registrar will increase enormously. He should, therefore, be freed from the responsibility of hearing appeals in certain cases. Further, with the growth in the activities of the co-operative societies, matters relating to appeals are likely to become more complex and technical in their nature. It is, therefore, considered desirable that, as in Bombay, every State may constitute a Tribunal to hear appeals against orders passed in arbitration proceedings. We have accordingly provided in clauses 100 and 101 of the Model Bill for the constitution of a Co-operative Tribunal on the lines of the Bombay Co-operative Societies Act, 1925.

48. Appeal against refusal to admit a person.—Among the matters included in appeals, we have included the decision of a co-operative society refusing to admit any person as a member of the society or a decision of a society expelling any member from the society. This is in conformity with the recommendation of the Rural Credit Survey Report that a person who is refused admission to a society should have the right to appeal to the Registrar of co-operative societies.

MODEL RULES

1. **Subject matter of rules.**—The Cooperative Societies Act is intended to provide the broad legal frame-work for facilitating the registration and working of co-operative societies and also for providing the necessary agency and authority for their guidance, supervision and control. It is customary to relegate to the rules, matters in respect of which a certain degree of elasticity is necessary and matters which are largely of a procedural nature. To incorporate either of them in the Act would make it not only rigid but cumbersome. For instance, matters relating to the maximum credit limit of a society, the forms and standards of fluid resources to be maintained by it, the audit fees to be levied, the investment of the Reserve fund etc., require a considerable degree of elasticity from one class of society to another and also from State to State. Similarly, procedural matters connected with the amendment of bye-laws of cooperative societies, the execution of awards, decrees, etc. can also be left to be regulated by rules. It is not proposed to indicate here the nature of the rules framed by the different State Governments for the regulation of cooperative societies in their respective areas. We have, however, taken into account these rules and have included in the Model Rules (Appendix VII) the minimum prescriptions that are necessary for the successful working of the different types of cooperative societies. In this Chapter we shall indicate some of the important rules and give reasons for their inclusion.

2. **Subject matter of bye-laws.**—The bye-laws of a cooperative society are important in regulating the working of a society and as such it is necessary to prescribe the matters in respect of which each cooperative society should frame its bye-laws. In rule 5 we have divided these matters into two categories, viz. (i) those which must be covered by every society and (ii) those which may be covered by a society.

3. **Investment of reserve fund.**—We observe that the practice regarding investment of the reserve fund of a society at present varies from State to State. There are some which prohibit the investment of the reserve fund in the business of a society. There are others which permit investment in the business, whereas in others the fund can be invested in the business under certain circumstances or in a certain class of societies. The Standing Advisory Committee on Agricultural Credit of the Reserve Bank at its Fifth Meeting in January, 1956 recommended that, the reserve fund of cooperative societies at the primary level and of the central cooperative banks at the intermediate level should be invested outside their business until such time as their respective reserve fund was equal to their paid-up capital. At the apex level the reserve fund should be invested outside the business in Government and other securities. The Standing Advisory Committee did not consider the question of investment of reserve fund of non-credit societies, where the need for permission to invest atleast a certain portion of the reserve fund in the business is widely recognised. In view of these considerations, in rule 22 of the Model Rules, we have

provided that the reserve fund of a cooperative society should be invested outside its business. But, where the Registrar of Co-operative Societies is satisfied that the fund may be utilised in the business of a society he may permit such investment. Further, it is necessary to see that the fund invested outside the business is not drawn upon or encumbered by the society except with the previous permission of the Registrar. This has also been provided for in the said rule.

4. Maximum credit limit of a society.—The maximum borrowing power of a cooperative society should be kept within reasonable limits in the interests of its creditors. In Rule 24 power has been given to the Registrar to determine this limit for a society or class of societies. At the same time, thrift has to be promoted among members and rural savings have to be encouraged. Suitable relaxation from this rule has been provided for this purpose.

5. Maintenance of fluid resources.—With a view to safeguarding the interests of depositor, it is necessary to lay down the standards and form of fluid resources to be maintained by cooperative societies which accept deposits and grant cash credits. We have noted that the Standing Advisory Committee on Agricultural Credit of the Reserve Bank has recommended certain forms and standards for the maintenance of fluid resources by cooperative financing agencies. There is, however, need for some degree of elasticity even in this regard and therefore Rule 27 of the Model Rules gives the Registrar the power to fix the standards and forms of fluid resources for a society or class of societies.

6. Execution Proceedings.—The procedure to be followed in exercising the powers relating to execution of awards, decrees, etc. has been given in detail in the Model Rules under chapter IX which has been largely taken from the rules in force in Madras where the cooperative department has been attending to execution work for many years. These rules also provide for attachment of property before judgment and attachment and sale of property without decrees in the case of Land Mortgage Banks (Rule 33).

7. Accounts and other books to be maintained by cooperative societies.—As account books and registers have to be maintained by every cooperative society for the proper conduct of its business, the Registrar has been empowered under Rule 37 to specify these books and registers. Where a cooperative society fails to maintain the account books and registers specified by the Registrar, it should be possible for him to get them written up by a person authorised by him and recover from the society the cost thereof. This has been provided for in Rule 38.

8. Submission of returns etc.—The collection of statistical and other information regarding the working of cooperative societies is a very important function of the Registrar. It should, therefore, be possible for him to direct cooperative societies to submit to him the returns specified by him. Further, if a society fails to do so, it should be open to him to depute somebody to get the returns and recover the cost thereof from the society. Rule 39 of the Model Rules covers these aspects.

BYE-LAWS OF CO-OPERATIVE SOCIETIES

1. **Nature and purpose of bye-laws.**—Along with the Act and the Rules, the bye-laws of a co-operative society provide it with the necessary legal framework for its operation. They are intended to lay down the societies' objects, indicate its functions and regulate its working consistent with the Act and the rules. Although they may be framed by a co-operative society and amended by it from time to time, they have to be registered by the Registrar. The bye-laws are thus an integral part of the legal basis of any co-operative society and are intended to ensure that the society functions in accordance with law and co-operative principles.

2. According to the terms of reference, the Committee has been asked to examine the existing provisions relating to various types of cooperative societies and to suggest if any modifications are required in the Act, the rules as well as the bye-laws, so that these societies may be able to play an increasingly important role in the economic development of the country. The modifications that we have incorporated in the Model Bill and the Model Rules, are not only designed to meet the recommendations of the All-India Rural Credit Survey Report and the requirements of the Second Five Year Plan, but also to promote and facilitate the working of the various types of cooperative societies. While the Model Bill and the Model Rules provide the basic legal framework for the successful working of societies, the bye-laws will provide for the procedural details and other factors which will facilitate their working.

3. This Committee was asked to prepare standard sets of bye-laws which would facilitate the proper and smooth establishment and working of the types of societies which are sought to be encouraged under the changed economic and social policy of the country. The Committee has accordingly prepared model bye-laws for eleven different types of societies. In this Chapter, we refer to the salient features in the bye-laws of each type of society.

4. **Bye-laws of a large-sized credit society.**—It would be worthwhile to recapitulate the broad recommendations of the Rural Credit Survey Report in regard to the large-sized credit societies and indicate how they have been given effect to in the bye-laws. This is done in the following paragraphs.

(a) "Each of the large-sized societies should have an initial minimum level of share capital which should be raised in a specified period to an optimum level. Until the optimum level is reached, there should be compulsory contributions from the members together with proportionate contribution (indirect) by Government. After the optimum level is reached, Government-derived contribution should cease, but compulsory contribution from members should continue for retiring the whole of Government-derived contribution within a suitable period." Bye-law 3 of the Model Bye-laws provides for the retirement of the Government held capital at such times and in such amounts as may be agreed upon between the society and the Government or the central co-operative bank.

(b) "The large-sized primary agricultural credit societies should be established on the basis of limited liability which may be confined to the value of shares held by members or preferably to a certain multiple thereof." Bye-law 4 of the Model Bye-laws thus provides for multiple liability of individual shareholders. It is expected that a large-sized credit society will also admit the State Government or State co-operative bank or a central bank as its member. In respect of the shares held by the Government or the banks, however, the liability will be limited to the paid-up capital.

(c) "The membership of agricultural credit societies in general, large-sized or small, should be open to all persons residing in the areas of their operations. Further, a person who is refused admission to a society should have the right to appeal to the Registrar of Co-operative Societies." Bye-law 5 of the Model Bye-laws covers this aspect.

(d) "The maximum borrowing limit of the large-sized primary agricultural credit societies should be fixed at a certain multiple of their paid-up capital and reserves". Bye-law 14 of the Model Bye-laws fixes the maximum borrowing power of a large-sized credit society at eight times the paid-up share capital and the reserve fund of the society.

(e) In a limited liability society, the share capital is very important inasmuch as the borrowing power of the society is determined in relation to it. It is, therefore, necessary that members contribute to the share capital of the society as liberally as possible. It may, however, be desirable to lay down a certain minimum standard in this regard and, therefore, in bye-law 34 of the Model Bye-laws, it has been suggested that the borrowings of a member will be restricted to a certain multiple of the shares held by him. Such a stipulation will ensure an automatic increase in the share capital of a society as its loan operations increase.

(f) The Rural Credit Survey Committee recommended that in regard to the loan operations of a large-sized credit society, the emphasis should be on crop loans and that the amount of the crop loan should be so fixed as to form an adequate proportion of the cash outlay per acre of crops and that, wherever appropriate, loans may be given in instalments. Bye-law 34 of the Model Bye-laws may provide medium-term loans for productive purposes. Bye-law provides for short-term loans being provided on the basis of acreage under different crops cultivated by a borrower. Similarly, it provides for the loans being given in the shape of cash credits, so that it will be possible for a member to draw the amounts required in instalments.

(g) "Besides crop loans, primary agricultural credit societies may provide medium-term loans for productive purposes". Bye-law 36 of the Model Bye-laws provides for the grant of short as well as medium-term loans by a large-sized credit society.

(h) "There should be a close link between the primary agricultural credit societies and marketing societies. The primary society should finance its members on condition that their produce is sold through the marketing society with which it works in co-ordination. The primary society will act as an agent for the sale of the produce to the nearest co-operative marketing society, assemble the produce

of its members, supervise and, if necessary, arrange for the transportation of the produce." Bye-law 37 of the Model Bye-laws provides for the linking of credit with marketing and the appointment of one of the members of the large-sized credit society as a marketing Panchayatdar for the purpose. That bye-law also provides for every borrower-member of a credit society signing an agreement to the effect that he will sell his produce only through the marketing society with which the credit society is affiliated.

(i) "Agricultural credit societies may also supply members' requirements for crop production and also basic, but standardised, consumers' goods on the basis of indents or of established demand. The Registrar may permit a society to resort to the system of outright purchase and sale to the extent of twice the paid up share capital, if the size of the society, its financial strength and the soundness of its management permit." Bye-law 47 of the Model Bye-laws provides for purchase on an indent basis as well as on the basis of outright purchase.

(j) Under the Second Five Year Plan, some of the large-sized credit societies are expected to have a godown of their own to be utilised for stocking the consumers' and producers' goods, required by the members and for serving as assembling centres for the marketing societies. Bye-law 49 of the Model Bye-laws provides for the regulation of this activity.

(k) The Rural Credit Survey Report recommended that supervision should be invariably treated as the legitimate function of the co-operative financing banks. While the banks will meet the cost in this regard from their own resources, supplemented by such subsidies as may be received by them from the State Government, the need for the affiliated societies also making some contributions has been recognised. Bye-law 54 of the Model Bye-laws thus provides for the society making such contribution to the supervision fund maintained by the central bank to which it is affiliated.

(l) "Every large-sized primary credit society should have a paid, full-time qualified secretary." The Model Bye-laws provide for the appointment of a secretary with such qualifications as may be specified by the Registrar.

5. Bye-laws of a co-operative credit society, unlimited.—It is proposed to organize during the Second Five Year Plan 10,400 large-sized primary agricultural credit societies. The expansion of credit for agricultural production envisaged in the Plan will be effected not merely through the large-sized credit societies, but largely through a very large number of small societies which are already in existence and which also are proposed to be organized in much larger numbers than the large-sized credit societies. These societies will be of the Raiffeisen type with a small area of operations covering in most cases one village and may be based on unlimited liability. We have, therefore, prepared model bye-laws to suit this type of credit society also. An important feature of these societies relates to the manner in which the maximum borrowing power of the society is determined. Whereas in a limited liability credit society, the borrowing power is fixed as a multiple of the owned funds of the society, in the unlimited liability type, it is left to be decided with reference to the value of the assets belonging to the

members. The most commonly adopted basis in this regard is a proportion of the total value of the net assets of all the members of the society. Since the basis in this regard is subject to variation from State to State, the bye-laws do not make a reference to any particular basis for fixing the limit. The small societies having a small business may not be in a position to afford a paid secretary and hence the functions of the secretary may be performed by an honorary secretary. Further, these societies may have to accept only one type of deposit, *viz*, fixed deposit. The nature of the activities of a small credit society being similar to that of a large-sized society, the bye-laws of the unlimited liability credit society are identical in all important matters connected with loan operations etc. with the bye-laws of the large-sized credit society. If the State Government decides to permit organisation of small credit societies also on limited liability basis, suitable modifications in the bye-laws will have to be made.

6. (a) Bye-laws of a primary marketing society.—A primary marketing society is to serve as an effective link between the primary agricultural credit societies and the central co-operative bank in the scheme of integrated rural credit. The main function of the primary marketing society is to market the produce of its members, although it may take up, in addition, the functions of processing and warehousing. Accordingly, the objects clause of the Model Bye-laws for primary marketing societies, includes all the functions which are incidental to the efficient marketing of agricultural produce by the societies.

(b) Membership.—A primary marketing society under the Model Bye-laws may admit three different categories of members *viz*., individuals, the State Government and merchants and traders. The last mentioned category, whenever admitted, will be nominal members who will have no right to vote and will have no share in the dividend or bonus distributed by the society.

(c) Maximum borrowing limit.—Bye-law No. 14 of the Model Bye-laws fixes the maximum borrowing limit of a primary marketing society at eight times its paid-up share capital and reserves. However, the borrowings against the pledge of goods in the effective custody of the financing banks will be excluded from this limit.

(d) Linking credit with marketing.—We have already referred to the role of the marketing society in the scheme of integrated credit. To establish a link between credit and marketing, it has been provided in bye-law 42 of the Model Bye-laws that out of the sale proceeds of the produce brought for sale, the marketing society will deduct an amount which will cover the loan (together with interest thereon) taken by the member from the agricultural credit society for his production programme. The amount so deducted will be passed on by the marketing society to the credit society or to the central bank. In the former case, the credit society will adjust the amount to the member's loan account. In the latter case, the central bank will credit the society's loan account, and the society in its turn will credit the member's loan account. The same procedure will be followed by the marketing society in case it advances a loan to a member on the pledge of his produce. The

idea is that a production loan and a marketing loan should not remain outstanding against the same produce. We have accordingly provided for this in bye-law 33 of the Model Bye-laws.

In providing the link between the credit societies and the marketing society, the marketing *panchayatdars* appointed by the marketing society under bye-law 43 of the Model Bye-laws, have a very important role to play. He is expected to function as an agent of the marketing society in the village.

(e) **Loan operations.**—The marketing society will normally not give any production loans. The loans by the society will be restricted as per bye-law 34 only to those on the pledge of produce in its custody at a certain proportion of the market value of the produce so pledged. There are, however, instances of marketing societies giving production loans to their members and in such cases the bye-laws will have to be suitably modified.

(f) **Conduct of sales.**—In the marketing of agricultural produce, the primary marketing societies will have to proceed very cautiously and, therefore, the bye-laws provide that the marketing society will sell agricultural produce of its members as their agent and will not accept any liability for loss. However, the bye-laws permit the society to undertake outright purchases to the extent of its owned funds.

(g) **Supply of commodities.**—The primary marketing society is expected to serve as the stockist for affiliated agricultural credit societies in respect of seeds, fertilisers, manures, implements etc. and also in respect of domestic requirements of the agriculturists. Bye-law 44 of the Model Bye-laws regulates such supply activities of the marketing society.

(h) **Godowns.**—Under the Second Five Year Plan, every primary marketing society is expected to be provided with a godown which will be needed by it in its marketing and supply activities. Bye-law 45 of the Model Bye-laws regulates the working of the godowns of the primary marketing society.

7. Bye-laws of a co-operative processing society.—Considerable stress was laid by the All-India Rural Credit Survey Committee on co-operative processing of agricultural produce as an important adjunct to marketing. While co-operative processing is expected to develop as part of the co-operative marketing of agricultural produce, it is possible that in some cases the establishment of a co-operative processing society first may facilitate the growth of marketing. Recognizing this, the Second Five Year Plan provides for the establishment of a large number of co-operative ginning factories for cotton, co-operative jute bailing factories, co-operative rice mills etc. Such co-operative processing societies will naturally need considerable financial assistance from the State which is to be provided by the Government entering into partnership with the societies. The societies will undertake to process the produce belonging to members before it is marketed. They may also make outright purchases to a limited extent, of the produce of the members and arrange for its sale on their own account. The model bye-laws which we have prepared, therefore, while retaining all the important features of co-operative marketing societies, make suitable provision for the special features mentioned above.

8. Bye-laws of a co-operative irrigation society.—Co-operative irrigation societies have been stated in some of the States. Their chief business is to provide pumping sets to lift water from rivers, canals, tanks, or wells and irrigate agricultural lands. For this purpose, they have also to construct canals and channels and erect bunds. They regulate water supply and charge water rates to recover the cost of the capital equipment and maintenance charges for such equipment, canals and bunds. Incidentally, they also help their members to procure agricultural requirements like improved seeds, fertilizers, implements, etc. We have drafted the Model Bye-laws for a co-operative irrigation society to serve these objects effectively. We have left the details of business of the society to be regulated by the Board of Directors of the society in accordance with regulations framed by them and approved by the Registrar. The income of the society after meeting the instalments due on the loans contracted by the society for its enterprise and after meeting the interest charges and running expenses, will yield net profits which may be distributed in the same manner as in any other co-operative society, including the payment of bonus in proportion to the water rates paid by them during the year. We do not, however, consider that in a society of this kind, there will be any need for building up heavy reserves. We have, therefore, left the percentage of contribution to the reserve fund out of the net profits to be fixed at a lower level than the statutory twenty five per cent with the special sanction of Government.

9. Bye-laws of a co-operative milk supply society.—Co-operative dairying has been organised in several States with cooperative milk supply societies in production centres and federation of these societies, known as milk unions, in consuming centres. Members of milk supply societies, who own cows and buffaloes, deliver their milk to their societies, which forwards it to the milk supply union in milk vans provided by the latter. On arrival at the union, the milk is pasteurised and distributed to consumers. We have framed a set of model bye-laws for a milk supply society only and not for the union for, a number of primary societies will have to be organised before a successful milk union can be established. Moreover, it is possible that a primary milk supply society handling large quantities of milk and commanding a good market in the neighbourhood, can itself go in for small dairy equipment with which it can process milk and dispose of pasteurised milk and milk products. In many milk supply societies, the members rear poultry as well and sell eggs through the society along with milk. We have, therefore, provided in the Model By-laws, for the milk supply society purchasing dairy equipment and undertaking the promotion of poultry-breeding alongside of dairying. To facilitate these two activities, we have provided for the grant of loans by the society to members for the purchase of milch-cattle and poultry. We have also provided for ancillary activities being conducted by the society such as the construction of cattle sheds, the supply of cattle fodder, the maintenance of breeding bulls, etc. Out of the profits of the institution, we have provided for a rebate or bonus to members in proportion to the volume of business done by them with the society after providing for the reserve fund, the Education Fund and the payment of dividend.

10. Bye-laws of co-operative farming societies.—The Co-operative Planning Committee appointed by the Government of India reported in 1946 that a co-operative farming society may take one of the following four forms :—

(i) Co-operative Better Farming Society :

The members of this society retain ownership over their lands, but agree to introduce improved methods of farming selected by the society and even follow a plan of cultivation laid down by it. They cultivate their lands on their own account, and each member takes his profit or bears his loss. The society will assist them in the supply of seeds, manures and implements in the provision of credit and in the sale of their surplus produce; but they will have to pay for the services rendered by the society.

(ii) Co-operative Joint Farming Society :

Here, too, the members retain ownership over their lands; but they agree to surrender the use of their lands to the society. The lands are then cultivated by the society with the help of its members. The cultivation is done by the society on its own account utilising its own share capital and supplementing it with borrowings. The members are grouped into work teams and allotted such work as has been decided upon by the society and they are paid wages on the piece-wage or time-wage system. If the society reaps a good harvest and its income over expenditure results in profits the members are given a share in the profits in proportion to the labour contributed by each, after setting apart reserves and paying dividend on share-capital.

(iii) Co-operative Collective Farming Society :

Here, the land belongs to the society either as on free-hold or lease-hold basis. It may have been given to it by Government or other public body. The society cultivates the land on its own account employing its members in the same manner as in a joint-farming-society. The profit or loss of the enterprise is also shared by the members in the same manner.

(iv) Co-operative Tenant Farming Society :

Here again, the land is held by the society on free-hold or lease-hold terms; but the society parcels out land among its members who cultivate their respective plots on their own account, profit or loss being borne entirely by each one of them, the society only helping them in crop-planning, in the supply of agricultural requisites, in the provision of credit and in the disposal of their surplus produce.

11. All these four types of societies have been introduced in several States in India. The common feature of every one of them is that membership is voluntary and not the result of compulsion. A delegation sent to China by the Government of India to study the working of cooperative farming societies there, has returned and presented its report recently. The Government of India will doubtless examine that report and evolve a suitable pattern or patterns of cooperative farming for India. Meanwhile we have framed suitable

model bye-laws for a co-operative joint-farming society already described above. State-partnership is essential for the successful working of such society and we have provided for it in the Model Bye-laws. In the event of other types of co-operative farming societies being organised, suitable modifications will have to be made in the present Model.

12. Bye-laws of Industrial Co-operatives.—Like co-operative farming, industrial co-operatives are of various kinds. We may classify the chief varieties as follows:—

- (i) an industrial co-operative production society, where the production activity is undertaken by the society itself, employing its members as wage-earners, and
- (ii) an industrial cooperative servicing society, where the production activity is undertaken by members on their own individual account deriving for the society such benefits as the supply of raw materials, the marketing of finished products and the provision of credit and other facilities.

13. Co-operative sugar mills and co-operative spinning mills are institutions dealing with large-scale industries. We have confined our attention to small scale-industries, which are undertaken in factories or in the homes of the workers and framed two sets of Model Bye-laws for them, one for production societies and the other for servicing societies.

14. By and large, the most numerous industrial societies in the country are the weavers' co-operatives where production is undertaken by the society. They conform to the production society pattern which employs its members in their own homes as wage-earners. Recently, a few societies where handloom weavers gather together and work in a factory run by the society, have been registered. Metal workers co-operative societies, manufacturing brass and copper vessels are usually of the servicing society type, the members producing the articles in their own homes on their own account, getting facilities from the society in regard to raw materials, credit, marketing etc. The two sets of model bye-laws we have appended have been framed in such a manner that they can be adopted for any industry, be it carpentry, pottery, knitting, basket making, leather goods manufacture or the manufacture of motor or cycle parts, according as production is undertaken on the society's account or on the individual's account. When production is undertaken on the society's account, we consider that State-partnership with the society is essential and have provided for it in the Model Bye-laws.

15. Bye-laws of a co-operative consumers' store.—These societies in India are based on the model of the Rochdale Pioneers, which has been adopted all the world over for consumers' societies. They conduct retail sales of domestic requirements on a cash basis. The prices of the commodities sold are generally in tune with the market, although they may have been purchased wholesale and at production centres at cheaper prices. The difference between the purchase-price and the sale-price, after meeting the expenses of running the institution, is treated as the net profit of the stores, an important charge on which is the distribution of bonus on purchases.

We have provided for these characteristics in the Model Bye-laws. For the convenience of those who dislike paying cash everytime they make a purchase from the stores, we have provided for their making a trade or purchase deposit with the stores against which they may make their purchases. In running a cooperative store, special attention has to be paid to the purchases made by the society and the stocks held by it. We have provided for a supervisory committee for this purpose and clothed it with powers of over-all supervision over the stores in regard to its accounts, cash and stocks.

16. Bye-laws of a co-operative labour contract society.—The labour contract co-operative societies already in existence in the country take contract work from the Public Works Department or the Forest Department or local bodies and other public institutions. They undertake such works as the construction of roads, canals, bridges and buildings, the clearance of forest-coups for fuel or the collection of minor produce from forests. They consist mostly of workers; but as the workers alone will not be able to raise sufficient share capital to enable them to execute the contracts, a limited number of sympathisers is also admitted into the society to provide adequate share capital and the managerial guidance in the initial stages. Additional funds required are obtained as loans, chiefly from cooperative financing banks. Even so, as payment of bills for works executed often gets delayed, these societies have to borrow from the co-operative banks in excess of eight times their paid-up capital and reserve fund. We have, therefore, provided in the Model Bye-laws that this maximum limit may be exceeded in respect of loans given on the security of bills accepted by Government departments and public bodies, whose works have been executed by the society. Further, we have provided for the distribution of bonus by the society on the remuneration earned by the members from the society during the year, in addition to the usual contribution to the reserve fund, etc.

17. Bye-laws of a co-operative house-building society.—There are various types of co-operative housing societies in the country; co-operative building societies which merely lend long-term loans to members for constructing independent houses of their own; co-operative house-construction societies which acquire land, lay out roads, parks, etc., plot out sites and construct houses thereon which are sold to members on the hire-purchase system; and co-operative townships where a new town altogether is built with amenities such as water-supply, drainage, etc., and houses constructed by the society are either sold on the hire-purchase system or rented out to members. In addition, there are housing societies based on the principle of tenant co-partnership. We have drafted model bye-laws for the simplest and most common variety of a housing society, viz., the one which lends long-term loans to members to construct houses of their own. But we have provided that, in addition, the society may build houses for its members as their agent with the funds lent to them. The Model Bye-laws also provide for the society purchasing land itself and dividing it and selling it as plots among its members after providing for common amenities including social, recreational and educational activities. If necessary, they may even construct houses in the name of the society and rent them out to their members. Under the Second Five-Year Plan, Government have provided

funds for co-operative housing schemes and a large part of the funds may be received from the Government or such authority as may be specified by them. It may, however, be necessary for the society to accept short-term deposits from members and non-members until the Government long-term loans become available. We have made necessary provision for this too in the Model Bye-laws.

• **18. Bye-laws of a co-operative transport society.**—We are aware that, in some States, co-operative transport societies have been registered for the owners of buses and lorries. These societies are not strictly co-operative in character. A transport society ought to consist either of its workers like drivers, cleaners, mechanics etc. or of consumers who use the buses or lorries maintained by the society. The more common type of motor transport society in India is a society of workers who jointly own the buses and lorries and run them for their benefit, thus eliminating the capitalist proprietor. Unfortunately, workers by themselves are unable to put up sufficient share capital to purchase the vehicles they need. They have, therefore, to admit into their society a few sympathisers who will contribute sufficient share capital in the initial stages to enable the purchase of vehicles with additional funds raised as loans from co-operative financing banks. These sympathisers do not derive any more financial benefit from the society than a dividend on their shares subject to a maximum of 6 per cent, but the worker members will get, in addition to that dividend, a bonus based on the remuneration drawn by them from the society during the year. We have framed the Model Bye-laws to suit this scheme.

ADMINISTRATION OF COOPERATIVE LAW

1. Role of cooperation in economic planning.—In framing the co-operative laws our main consideration has been to ensure that it serves as an effective instrument of development of cooperation and thereby enables the cooperative societies to undertake their increasingly important role in the development of the country. With the acceptance of the socialist pattern of society as the goal of economic planning, the building up of a cooperative sector has been recognised as one of the central aims of national policy. Accordingly, the Second Five Year Plan has set a target of providing Rs. 150 crores as short-term credit, Rs. 50 crores as medium-term credit and Rs. 25 crores as long-term credit by 1960-61. Furthermore, a programme for establishing 1900 cooperative marketing societies, 350 Central and State warehouses, 35 cooperative sugar factories and 118 other processing societies has been adopted.

2. Powers of the Registrar.—This elaborate programme of co-operative expansion requires that the movement should be properly organised and guided without giving room to the criticism that "cooperative societies are registered in haste and liquidated at leisure". For this purpose we have considered it necessary to confer all essential powers upon the Registrar of co-operative societies. At the same time, we recognise that the co-operative movement is essentially a democratic one and that nothing should be done which will impair its fundamental character. We have, therefore, invested the Registrar, in the Model Bill, only with such powers as have been found necessary in practice in most of the States and which are already embodied in their Statutes. In fact, we have omitted certain powers, which at present are vested in some States in the Registrar but which are considered as militating against the popular character of the movement, for example, in some States, the Registrar is empowered to compel a society to adopt an amendment of the bye-laws, in some other States he can bring about compulsory amalgamation of societies, and in some more he has the power to remove one or more members of the Boards of Directors of cooperative institutions. We have not incorporated provisions for conferring any such powers on the Registrars in the Model Bill.

3. Need for proper Administration.—The Model Bill, Rules and the bye-laws framed by us are obviously intended to serve as a broad legal frame-work within which the co-operatives will grow and function. It is necessary in this connection to emphasize that this frame-work will be effective and useful only if the various laws are administered in a proper manner. In the first instance, those who are charged with the administration of cooperative laws must bear in mind the broader objectives of the movement and the context in which development of cooperation is taking place. In the second place, the cooperative laws must be administered in a manner which combines sympathy, speed and efficiency along with due observance of the various provisions of law and the requirements of cooperative principles.

4. **Stages of delays.**—We do not wish to go into the detailed working and administration of the cooperative laws and institutions but we have attempted to pin-point here the various stages at which it is necessary to supplement cooperative laws by suitable administrative action. These stages, in relation to primary credit societies, are as follows :—

- (A) Organisation.
- (B) Registration.
- (C) Affiliation with the Financing Bank.
- (D) Preparation of property (Assets) statements.
- (E) Loan application by the member.
- (F) Sanction of loan by the Financing Bank.
- (G) Disbursement of Loan to the member.

5. **Steps for removing delays.**—The following steps need to be taken to prevent delays at these stages :—

(A) *Organisation :*

(a) The preliminary work in connection with the organisation of a society is that the Supervisor calls a meeting of the people of the village, explains to them the objectives of a cooperative organisation and otherwise satisfies himself that the society is being organised on cooperative lines and has chances of success. He is required to have the forms filled in his presence and then send the papers to the registering authority for registration. Delays in organisation sometimes occur because the Supervisor defers his visit to the village to the routine time of his round in that area. It would expedite matters if administrative orders could provide that the Supervisor should visit the village and complete formalities relating to organisation of the society within two weeks of the receipt of application for organisation of the society.

(b) Sometimes delays occur because the members are not able to obtain with ease copies of model bye-laws of the societies and the standard forms required for formation of societies. Usually, the forms are available at the offices of the officials of the Cooperative Department in the district *viz.* District Co-operative Officers, Circle Officers and Supervisors. It would be advantageous, if copies of model bye-laws and the standard forms could be stocked in Junior High Schools, Panchayat Offices as well as with Village Level Workers.

(B) *Registration :*

(a) In some States the powers of registration vest only in the Registrar and the Deputy Registrars. The result is that the proposals for registration are sent up to the offices of the Deputy Registrar which are usually at the headquarters of the Division. It is necessary to give powers of registration to officers of the Cooperative Department at the district level.

It could be provided under administrative orders that the routine kinds of societies to which standard model bye-laws apply, could be registered by the District Cooperative Officers. For the more complicated and federal type of societies, papers for registration could be sent to the Deputy Registrar or the Registrar as the case may be.

(b) Sometimes delays occur in the registration of credit societies, because the Central Banks take a long time in communicating their consent to the registration of the society, which is required in some States. Administrative orders should provide that the consent of the bank for registration should be given expeditiously preferably within two weeks of receipt of application from the society.

(c) In order to avoid delays at the office of the registering officer it should be provided under administrative orders that the registration certificate should be issued within a week of the receipt of the consent from the bank.

Thus it should be possible to provide under administrative orders that the Supervisor, who initially receives the application for organisation of a society should visit the village and complete the papers relating to formal proposals within 15 days of the receipt of the application, see his way to obtaining the consent of the Central Bank as expeditiously as possible and send his report of organisation along with the bank's consent complete in all respects within two weeks (from the date of his visit to the village) to the District Cooperative Officer. The District Cooperative Officer should complete the registration within a week. In this way it should be possible to register a society within 5 weeks of the receipt of application for organisation of a society. Administrative orders should also provide that wherever papers are found to be deficient in one respect or other, it should be the responsibility of the Supervisor or the District Cooperative Officer, whoever may be handling these papers, to contact the persons concerned and have the necessary particulars filled in his presence and not leave matters to routine correspondence.

In order that the Registrar may keep himself posted with the latest progress of registration and check up whether there have been any delays in this matter, there should be a column in the monthly progress report from each district indicating the number of proposals for registration pending, with the date of the oldest case and the reasons of delay in each case. The District Cooperative Officer should also circulate a monthly review of progress and performance about the field staff under him.

(C) *Affiliation with the Bank :*

Since a society becomes eligible for loan from the Central Bank only after it has been duly affiliated to it, it is necessary to provide under administrative orders that the affiliation of the society with the bank is effective without delay. In States where the consent of the Central Bank to the registration of a society is a condition precedent to its registration, it should be insisted upon that the amount of share capital collected at the time of the organisation of a society should be deposited immediately with the Central Bank under suspense account in the name of the proposed society. This will make affiliation just a formal affair.

In States where consent of the Central Bank is not required, administrative orders should provide that the amount of share capital collected at the time of registration should be deposited immediately after collection under suspense account in the name of the

proposed society and also that the Central Banks should complete affiliation of society within a week of the receipt of the application for affiliation. It shall be the specific responsibility of the District Cooperative Officer to inform the Central Bank concerned about the registration of the society and to ensure that the society on registration, applies to the Central Bank for affiliation at its next general meeting which should be called as early as possible. The provision for affiliation can also be made in the application for registration.

(D) Preparation of Property (Assets) Statements :

In some States, delays in preparation of property (assets) statements occur because the papers are routed through a number of agencies—the Supervisor prepares the assets statements, the Lekhpal (Patwari) verifies them, the Circle Officer (Cooperative Inspector) forwards them to the District Cooperative Officer and the District Cooperative Officer sends them to the bank. It should not be necessary to have the papers verified by the Lekhpal because the Supervisor prepares his statements on the basis of extracts of land-records filed by the members. It is also not necessary that the papers should pass through the District Cooperative Officer. Thus, two stages could conveniently be eliminated, where all these agencies intervene between the society and the bank.

The basis for preparation of property statement of members in some States is fairly complicated and cumbersome. In view of the fact that credit is now to be related to production needs of members, it would be desirable to fix the maximum borrowing limit of a society with reference to the requirements of finance of all its members, based on acreage of land to be cultivated by them during the sowing season and the scale of finance fixed for different crops.

(E) Loan Application :

Loan applications of the society containing consolidated demands of its members are sent by the Secretary of the society to the Supervisor, who forwards them to the Central Bank with his recommendations. In some States these applications are sent through Cooperative Inspectors.

In view of the fact that supervision in most States would now be a function of the Central Banks, it should be sufficient to send the applications either direct or through the Supervisor. Thus one or more agencies at this stage could be eliminated. In order that delays do not occur at this stage, it should be provided that the scrutiny of the loan application by the Supervisor should not take more than one week.

(F) Sanction of Loan by the Central Bank :

(a) Central Banks sometimes take a long time in sanctioning loans. Administrative orders should provide that the Central Bank should sanction loans as expeditiously as possible, preferably within two weeks of receipt of papers from the Supervisor or the society.

(b) It would be a good practice if Central Banks sanction a part of the loan immediately on receipt of application without awaiting full scrutiny. The amount can be recouped from the amount subsequently sanctioned. It would facilitate the withdrawal of funds well in time by the cultivators. The remainder of the loans could be passed on after formal scrutiny. It should be possible to adopt this procedure at least in the case of good and larger sized societies. Detailed scrutiny should not be necessary in the case of 'A' class societies and the Central Banks should sanction the loan on receipt of formal application from the society on the basis of sanctions issued in the previous year.

(G) Disbursement of Loan :

Delays in disbursement take place mostly in case of societies which are situated far away from the headquarters of the bank or its branches; for disbursements are, in some States, made at the headquarters of the Central Bank or its branches to the Sarpanchas. The Central Banks generally do not have branches in the interior. It would be useful if Central Banks could make arrangements with the State Bank of India, Urban Cooperative Banks or other commercial banks for remittance of money to the Sarpanchas at places where such banks have their branches and where the Cooperative Banks do not have the branches.

What is more important is that loans are actually distributed to members well in time i.e., at least 6 weeks before the commencement of the sowing season. Administrative orders should therefore provide for definite date limits for every 'fasal' (crop season) of the year by which (1) loan applications are prepared by the society, (2) they are sent by the society or the Supervisor to the Central Bank, (3) they are sanctioned by the Central Bank and (4) actual disbursement takes place to members.

What has been stated in respect of primary credit societies would apply to larger-sized societies also. The observations made above will, with suitable modifications, apply to other kinds of societies, also.

(H) Delays in Arbitration and Liquidation :

It is suggested that where there are large number of arbitration cases or liquidation cases, a special officer should be appointed for their disposal. It is necessary that the monthly progress report from the District Cooperative Officer to the Registrar contains information about the number of pending arbitration and liquidation cases at the end of the month along with dates of the oldest cases and the reasons for the delay.

6. Trained and Efficient Staff.—The prompt and proper execution of various administrative orders suggested by us in the preceding paragraphs and the implementation of the various provisions of the Cooperative Law would require a trained, efficient and adequate staff. Hence it will be necessary to ensure that along with the legislation on the lines suggested by us, simultaneous action is taken

to strengthen the Cooperative Department and train its personnel for, in the ultimate analysis it is not the law that matters as much as the men behind it.

NEW DELHI;
May 26th, 1957.

S. T. RAJA—Chairman.

J. C. RYAN—Member.

S. K. HIRANANDANI—Member.

K. SUBRAHMANYAN NAIDU—Member.

A. PALANIAPPA MUDLIAR—Member.

S. S. PURI—Member.

M. D. VIDWANS—Member.

o M. P. BHARGAVA—Member/Secretary.

SUMMARY OF THE PROVISIONS IN THE MODEL CO-OPERATIVE SOCIETIES BILL AND THE MODEL RULES

I. MODEL CO-OPERATIVE SOCIETIES BILL

The following are the important provisions in the Model Co-operative Societies Bill.

(1) The State Government may appoint a person to be the Registrar of co-operative societies for the State and may appoint other persons to assist him and confer on such persons all or any of the powers of the Registrar. The persons appointed to assist the Registrar shall exercise the powers conferred on them subject to the general superintendence and control of the Registrar.

(2) A co-operative credit society consisting mainly of agriculturists shall be registered with unlimited liability, unless otherwise directed by the State Government.

(3) For registration as a co-operative society, the objects of the society must not only comply with the provisions of the Act and the rules, but should also be consistent with co-operative principles and with the principles of social justice. The society must also satisfy the requirements of sound business and have a reasonable chance of success.

(4) A society may, by an amendment of its bye-laws, change the form or extent of its liability, provided that the members and creditors of the society are given an opportunity to withdraw their shares or deposits in the society.

(5) In registering an amendment to the bye-laws of a co-operative society, the Registrar is to be satisfied that the proposed amendment is not contrary to the provisions of the Act and the rules and is not inconsistent with the principles of social justice.

(6) A society may transfer its assets and liabilities, in whole or in part, to any other co-operative society or divide itself into two or more co-operative societies. Such amalgamation or division, however, can be effected after giving the members and creditors of the societies concerned an opportunity to withdraw their shares or deposits in them.

(7) A co-operative society shall admit as members only individuals who are competent to contract, any other co-operative society and the State Government. A society may also admit an individual as 'nominal' or 'associate' member. A nominal member shall not be entitled to any share in the assets or profits of the society.

(8) Every member of a co-operative society shall have one vote in the affairs of the society. But where the Government is a member of the society, each person nominated by the State Government or the Committee of the society shall have one vote. Voting by proxy will not be allowed.

(9) An individual member may hold shares in a co-operative society not exceeding rupees five thousand. The State Government may, by notification in the Official Gazette, fix a higher maximum in special cases.

(10) A minor, or a person of an unsound mind, may acquire, by inheritance or otherwise, the shares of a deceased member in a co-operative society.

(11) The liability of the past member or the estate of a deceased member for the debts of a society shall continue for a period of two years from the date of his ceasing to be a member.

(12) A society shall convene at least once a year an annual general meeting for the approval of the programme of its activities for the coming year, for the election of the members of the Committee, for the amendment of bye-laws etc.

(13) The State Government shall have the right to nominate not more than three members or one-third of the total number of members of the Committee of a co-operative society, whichever is less, where the Government has subscribed to its share capital directly or indirectly or has guaranteed debentures issued by it or has guaranteed the repayment of loans advanced to it.

(14) The Register may supersede the Committee of a co-operative society, if he is satisfied that it is persistently negligent in the performance of the duties imposed on it by the Act and the bye-laws. Before removing the Committee, the Register will give an opportunity to it of being heard. In place of the Committee removed, the Registrar may appoint a new Committee consisting of one or more members of the society or appoint an Administrator who may not be a member of the society.

(15) The new Committee of a co-operative society, an Administrator or a liquidator may apply to a magistrate for securing records and property of the society which may have been withheld by the outgoing Committee.

(16) Any debt owing to a co-operative society by a member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements, raw materials for manufacture and finished products belonging to a member. A member shall not transfer any property which is subject to a first charge of the society, except with its permission in writing. Any transfer of property made in contravention of these provisions will be void. The first charge shall be available as against a claim of the Government arising from any loans granted to a member under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884, after the grant of loans to him by the society.

(17) A member of a co-operative society may execute an agreement in favour of a society authorising his employer to deduct from his salary such amount as may be specified in the agreement and pay the amount so deducted towards the repayment of the loan taken by him from the society.

(18) In addition to exemption from the income-tax, registration and other fees which the co-operative societies at present enjoy, the State Government may exempt any class of co-operative societies from taxes on agricultural income, on sale or purchase of goods and in professions, trades, callings and employments.

(19) It shall be the duty of the State Government to encourage and promote the Co-operative Movement in the State. The State Government may subscribe directly to the share capital of a co-operative society. It shall, however, not be entitled to a dividend at a rate higher than that at which such dividend is payable to any other shareholder of the society.

(20) The State Government may contribute indirectly to the share capital of a co-operative society. For this purpose, it may provide moneys to an apex society which shall credit them to a fund to be called the 'Principal State Partnership Fund'. The Fund is to be utilised by the apex society for directly purchasing shares in its own name in central co-operative societies affiliated to it or in providing moneys to a central co-operative society to enable the latter to purchase shares in primary co-operative societies. The moneys received by the central society out of the 'Principal State Partnership Fund' will be credited by it to a 'Subsidiary State Partnership Fund'.

(21) Every purchase of shares out of the moneys in the 'Principal State Partnership Fund' or a 'Subsidiary State Partnership Fund' shall be made only with the previous approval in writing of the State Government. The liability in respect of shares purchased out of the Funds mentioned above will be limited to the amount paid in respect of such shares. If a central co-operative society in which shares are purchased from the 'Principal State Partnership Fund' or a primary co-operative society in which shares are purchased from a 'subsidiary State Partnership Fund' is liquidated, the State Government shall not have any claim against the apex society in respect of any loss arising from such purchases. All moneys to the credit of the 'Principal or Subsidiary State Partnership Funds' shall not form part of the assets of the apex or central societies. The State Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purchase of shares in central societies or for the purposes of providing moneys by it to central societies to enable them to purchase shares in primary societies.

(22) The State Government may assist co-operative societies by giving them loans and advances, by guaranteeing debentures issued by a society, by guaranteeing loans advanced to a co-operative society, or by giving subsidies.

(23) Out of the net profits in a year, a co-operative society shall transfer an amount which is not less than twenty-five per cent. of the profits to the reserve fund. It shall also contribute to the Co-operative Education Fund at a rate prescribed in the rules. The balance of the net profits may be utilised by it in payment of dividend, in payment of bonus to members in proportion to the amount or volume of business done by them with the society, in payment of bonus to employees, in creation of funds etc.

(24) A co-operative society may create a provident fund for the benefit of its employees. The provident fund shall not form part of the assets of the society.

(25) The Registrar may inspect the books of a co-operative society on his own motion.

(26) If in the course of an audit, inquiry or inspection, it is found that a person who was entrusted with the management of a society, has made any payment contrary to the Act, the rules and the bye-laws, or has caused any loss to the society by breach of trust or by gross negligence, the Registrar may, after an enquiry into the conduct of the person, order him to restore the money or the property.

(27) A dispute touching the constitution, management or the business of a co-operative society shall be referred to the Registrar and no court will have jurisdiction to enter any suit or other proceedings in respect of such disputes. The disputes may be decided by the Registrar himself or may be transferred to another person who has been invested by the State Government with powers in that behalf, or to one arbitrator.

(28) Before cancelling the registration of a co-operative society, the Registrar may order the society to be wound up and may appoint a liquidator for the purpose. On his appointment, a liquidator will take into his custody all the property belonging to the society. The liquidator shall continue to have the custody or control of the property of the society during the period of appeal, and even when an appeal is preferred, until it is decided. If the appeal is rejected the liquidator will proceed with the liquidation proceedings.

(29) The State Government may appoint the Registrar or any other person to act as trustee for the purpose of facilitating the working of co-operative land mortgage banks.

(30) The debentures issued by a State Co-operative Land Mortgage Bank shall carry the guarantee of the State Government as to the repayment of principal and payment of interest.

(31) The State Government may guarantee for any specified period, the repayment of a loan granted by a land mortgage bank in excess of the amount to which a borrower is entitled on the basis of the value of the land determined in accordance with the standards of valuation in force, provided the loan is for the development and improvement of land.

(32) A mortgage in favour of a land mortgage bank will have priority over any claim of the Government arising from loans under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884.

(33) A mortgage executed in favour of a primary land mortgage bank will stand automatically vested in the State Co-operative Land Mortgage Bank.

(34) If an instalment payable in respect of a loan made by a land mortgage bank remains unpaid, the Registrar, may, on the application of the land mortgage bank, direct the recovery of the amount due by distraint and sale of the produce of the mortgaged property. Similarly, the Register shall have the power to bring the mortgaged property for sale without the intervention of the court, in satisfaction of the debts due by the member to a land mortgage bank.

(35) The Registrar, or any person subordinate to him empowered by the Registrar in this behalf may, on the application of a co-operative society, make an order directing the payment on any debt due to the society by selling the property subject to a first charge.

(36) The orders of the Registrar for the recovery of moneys, the awards of arbitrators and orders of the Tribunal shall be executed by the civil court, by the Collector, or by the Registrar or any person authorised by him.

(37) The Registrar may direct the attachment of the property of a person before judgment, if he is satisfied that the person, with the intention of delaying the enforcement of an order or an award, is likely to remove the property from the jurisdiction of the Registrar.

(38) The State Government shall constitute a Tribunal consisting of not more than three members. Any person agrieved by the decision of the Registrar, or an award of an arbitrator, given in the settlement of a dispute, may appeal to the Tribunal.

(39) An appeal against the orders of the Registrar in certain cases shall lie to the State Government and against orders passed by any person other than the Registrar, to the Registrar.

(40) No civil or revenue court will have jurisdiction in respect of matters connected with the registration of a co-operative society or its bye-laws, the removal of the Committee, the winding up of a society or any dispute required to be referred to the Registrar.

II. MODEL RULES

The following are the important provisions made in the Model Rules.

(1) The bye-laws of a co-operative society shall provide for certain matters essential for its organisation and management, such as the objects of the society, the nature and extent of the liability of the members, the extent to which the society may borrow funds, the purposes for which the funds may be applied for, etc. In addition to these, the bye-laws may also make provision in regard to matters which are incidental to the organisation of the society and the management of its business such as, for instance, the method of recruitment and the conditions of service of the salaried employees etc.

(2) An amendment of the bye-laws of a co-operative society shall be made by a resolution passed by a two-thirds majority of the members present and voting.

(3) A person shall not become a member of two primary credit societies.

(4) The chairman of a meeting of a co-operative society shall have a second or casting vote.

(5) A defaulting member shall not be appointed to represent a society in another co-operative society.

(6) For the purpose of election of members of its Committee, a co-operative society may divide its membership into different groups on a territorial or any other basis. The bye-laws may also

specify the number or proportion of the members of the Committee who may be elected to represent each such group on the Committee and may specify further that, the representatives may be elected by all the members of the society or by only that particular group of members to which such representatives belong.

(7) A co-operative society shall not appoint any person as its paid officer or employee in any category of service, unless he possesses such qualifications and furnishes such security as may be specified by the Registrar.

(8) Every co-operative society shall contribute an amount, not exceeding five per cent. of its net profits in an year, to the Co-operative Education Fund which will be administered by the State Co-operative Union and if there is no such Union, by a committee appointed by the Registrar.

(9) The reserve fund of a co-operative society shall be indivisible and no member shall have a claim to any share in it. It shall not be withdrawn without the permission of the Registrar previously obtained in writing. Unless otherwise permitted by the Registrar, the reserve fund shall not be invested by the society in its business.

(10) A co-operative society shall not receive deposits and loans from members or non-members exceeding the limit fixed by the Registrar for that society. However, a co-operative society which accepts deposits from members only and has no other outside liability, may accept such deposits in excess of the limit fixed by the Registrar, provided, however, that the excess amount is invested outside the business of the society.

(11) A co-operative society accepting deposits and granting cash credits shall maintain fluid resources in such form and according to such standards as may be fixed by the Registrar.

(12) Every co-operative society shall pay to the State Government a fee for the audit of its accounts in accordance with the scale fixed by the Registrar with the previous approval of the State Government.

(13) No person shall be qualified to be a member of the Tribunal, unless he is a district judge or has exercised the powers of a district judge or is an advocate of at least ten years standing, or is a law-graduate having considerable experience of the Co-operative Movement.

(14) The Registrar may direct a co-operative society to get its accounts written up to any date in such form and within such time as he may direct. In case of failure by the society to do so, the Registrar may get the accounts written up by a person deputed by him for the purpose and may recover the cost thereof from the society.

(15) Every co-operative society shall furnish to the Registrar every year a receipt and disbursement statement, a profit and loss account, a balance sheet and any other returns specified by him. In case the society fails to do so, the Registrar may depute a person to get the returns and recover the cost thereof from the society.

APPENDIX I

No. 5-8/56-Coop. I

GOVERNMENT OF INDIA

MINISTRY OF FOOD AND AGRICULTURE

New Delhi, the 6th June, 1956.

RESOLUTION

1. Co-operative Legislation in India had its origin in the problem of rural indebtedness and of bringing credit facilities within the reach of agriculturists on reasonable terms. The first Co-operative Credit Societies Act was enacted in 1904 but was soon replaced by a more comprehensive legislation passed in 1912 known as "The Co-operative Societies Act, 1912". Following the recommendation made in the MacLagan Committee Report, and on "Co-operation" becoming a Provincial Transferred subject, some States took steps to have their own co-operative legislation which has been amended from time to time in the light of experience gained and difficulties encountered. In some other States, the co-operative movement, is still governed by the All India Co-operative Societies Act, 1912.

2. The Co-operative movement is on the threshold of large scale expansion. Economic development of the country along democratic lines offers a vast field for the application of co-operative principles in its infinitely varying forms. The Rural Credit Survey Committee, has advocated the need for the re-organisation of co-operative institutions on the basis of State partnership, etc. Far reaching changes are likely to come about in the Co-operative structure. The existing legislation to co-operative societies has, therefore, to be examined in the light of these developments with a view to simplifying, rationalising and modernising the existing laws. It is necessary to lay down simple and expeditious procedure for registration and regulation of the co-operative societies.

3. The Government of India, therefore, have decided to set up a Committee, with a view to evolving a simple model of legislation to govern the working of co-operative societies.

4. The Committee will consist of the following :—

- | | |
|----------------------------------|---|
| 1. Shri S. T. Raja, Bar-at-law | Joint Secretary, Ministry of Food and Agriculture, Government of India, New Delhi
(Chairman) |
| 2. Shri S. K. Piranadani, | Additional Draftsman, Ministry of Law
(Member) |
| 3. Shri J. C. Ryan, IAS., (Retd) | Chief officer, Agrl. Credit Department, Reserve Bank of India Bombay. (Member) |
| 4. Shri Subramanian Nayudu, IAS. | Registrar, Co-operative Societies, Andhra.
(Member) |
| 5. Shri S. S. Puri, IAS. | Deputy Registrar, Co-operative Societies Punjab.
(Member) |
| 6. Shri M. P. Bhargava, | Co-operation Adviser, Ministry of Food and Agriculture, New Delhi. (Member Secretary) |

The Committee shall have the power to co-opt an expert or a specialist in co-operation or co-operative law or a representative of a State Government for considering any special matter or any law relating to that State Government. Such co-option may be made for such time as it is considered necessary.

5. The terms of reference of the Committee shall be :—

- (a) To review the existing Co-operative legislation and to make recommendations for a simple legislative measure generally suited to the whole country to facilitate co-ordinated progress of the country;
- (d) To prepare standard sets of bye-laws which would facilitate the Survey Report, the modification necessary in the Co-operative Societies Act and Rules for giving effect to the concept of State partnership in share capital and State participation in management of co-operative societies;
- (c) To examine the existing provisions relating to various types of co-operative societies listed below to suggest if any modifications are required in the Act, Rules as well as bye-laws so that these societies may be able to play an increasingly important role in the economic development of the country.

- (i) Credit.
- (ii) Marketing.
- (iii) Processing.
- (iv) Irrigation.
- (v) Dairying.
- (vi) Farming.
- (vii) Small scale and Village and others Industries.
- (viii) Consumers.
- (ix) Labour contract Construction & Housing.
- (x) Transport, etc;

- (d) To prepare standard sets of bye-laws which would facilitate the proper and smooth establishment and working of the new types of societies which are sought to be encouraged under the changed economic and social policy; and
- (e) To consider other related matters.

6. The Committee will meet as frequently as necessary in Delhi or at any other suitable place and will submit its report within 6 months from the date of appointment.

ORDERED that a copy of the Resolution be communicated to all State Governments, all Ministries and Departments of Government of India, Cabinet Secretariat, Prime Minister's Secretariat and Planning Commission.

ORDERED also that it be published in the Gazette of India.

S. T. RAJA,

Joint Secretary to the Govt. of India.

APPENDIX II

QUESTIONNAIRE ON CO-OPERATIVE LAW

I. GENERAL

- (a) What is the law relating to co-operative societies in force in your State? Give the name and year of such law.
- (b) Have any rules been framed under such law?
- (c) Have model bye-laws been framed for different types of co-operative societies? Please list the types of co-operative societies for which such bye-laws have been framed.
- (d) Are there any types of co-operative societies for which no model bye-laws have been framed? Please list them.
- *(e) Please furnish 6 copies each of the laws, the rules and the bye-laws.

II. PREAMBLE OR THE SCOPE OF THE LAW

In view of the objectives of the Second Five Year Plan and the plans for development of the co-operative movement thereunder, do you consider any change necessary in the preamble to the law relating to co-operative societies, in force in your State? If so, please indicate the lines on which this change should be made.

III. RECOMMENDATIONS OF THE RURAL CREDIT SURVEY COMMITTEE REPORT

(1) State Partnership :

(a) Does your law provide for State partnership i.e. the State taking shares in co-operative societies? Please quote the relevant provision. If not, what modifications would you suggest?

(b) What changes, if any, would be necessary in your law:—

(i) If the State partnership is to be direct at the primary, district and State levels, and;

(ii) If the State partnership is to be indirect i.e. through the apex or central co-operative institutions.

(2) State participation :

(a) Does your law provide for the nomination of directors by the State Government on the Board of Management of co-operative societies? If so, please cite the relevant provisions and suggest changes, if any, in this regard.

(b) What provisions, if any, exist in your law, regarding the appointment of Managers, Secretaries and other Executive Officers of co-operative societies by the State Government? Do you consider these provisions satisfactory? If not, what changes would you suggest therein?

(c) Does your law provide for policy directives, veto, and similar special rights to be exercised by the directors nominated by the State Government? If so, please cite the relevant provision. Do you consider these provisions satisfactory? If not, what changes do you propose therein?

(3) Large Sized Credit Societies :

(a) Does your law permit the registration of a large sized rural credit society with limited liability? If not, what amendments will be required?

(b) Does your law provide for the change over from unlimited to limited liability, where necessary? If not, what changes would you suggest?

(c) Does your law restrict the area of operation of a primary agricultural credit society to a single village? If so, what amendments are necessary in order to widen the area of its operation?

*Only for State Government.

(d) Does your law provide for the amalgamation of small credit societies into large credit societies? If so, is any change necessary for simplifying the procedure? If there is no such provision, what changes would you suggest for facilitating such amalgamation? What provision, if any, exists in your law which requires a member borrowing from a credit society to sell his produce through marketing society to which the credit society is affiliated? Do you consider the existing provision in this regard satisfactory? If not, what provision would you suggest?

(e) The Rural Credit Survey Committee has recommended that "while credit societies should not ordinarily attempt mortgage finance, they should be enabled to have a statutory charge on the crop for the seasonal finance given to buttress personal security". Does your law provide for such a charge? If not, what amendments would you suggest?

(f) If there is any such provision, do you find it effective in practice? If not, what steps would you suggest for ensuring an effective charge on the produce of the borrowing member?

(4) Central Co-operative Banks :

To enable the amalgamation of central co-operative banks or central co-operative financing agencies, where necessary, what modifications, if any, would you suggest in your law? [vide question 3(d)].

(5) Land Mortgage Banks :

(a) Is there a separate Act governing land mortgage banks in your State? If not, do you consider it necessary to have a separate law on the subject and why?

(b) If a separate legislation is considered necessary, what specific matters should it deal with?

(c) If separate legislation is not considered necessary, what additions would you suggest in this connection in your law?

(6) Co-operative Marketing Societies :

(a) What are the provisions, if any, in your law requiring the members of a marketing society to sell their agricultural produce through the society and if they fail to do so, is there any provision for a penalty?

(b) Does your law provide for the marketing societies undertaking processing as well? If not, what modifications would you suggest?

(c) Does your law enable a marketing society to function as a licensed warehouseman in respect of agricultural produce under the Warehousing Act, if any, of your State?

(7) Co-operative Processing Societies :

(a) Does your law provide for confining the membership co-operative processing societies to primary producers or the co-operative societies of such producers? If others are admitted, what are the provisions, if any, for restricting their number, voting rights etc. and for the retirement of their share capital.

(b) What are the provisions, if any, in your law regarding the participation of the workers of co-operative processing plants, in the share capital and management of the processing society?

(8) Registration :

Appointment of Registrar and other officers.—(a) Are the provisions in your law regarding the appointment of the Registrar of co-operative societies, the appointment of persons to assist the Registrar, and the conferment of all or any of the powers of the Registrar on any such person, satisfactory? If such provisions are not satisfactory, what modifications would you suggest therein?

(b) Do you consider the procedure laid down under your law for the registration and amendment of the bye-laws of a co-operative society satisfactory? If not, what amendments would you suggest?

(9) Membership :

(a) Are there any restrictions regarding the membership of co-operative societies in your law which, in your view, hamper the extension of the benefits of co-operation to small and medium cultivators and small artisans? If so, what are these restrictions and what suggestions would you offer regarding their removal?

(a-i) Does your law debar employees of co-operative societies from becoming members of the society?

(b) In particular, would you consider it desirable that a provision should be made in the law for an appeal by a person who has been refused membership in a primary co-operative society to a higher authority against such refusal? If so, to whom should such appeal lie, and what should be the procedure for its consideration and disposal?

(c) Do you consider that the provision that members should be persons above the age of eighteen years should be relaxed in the case of co-operative societies expected to cater to the needs of students? If so, what form should this exemption take?

(d) Do you consider that there should be a provision for compelling the residents of a village or group of villages to join a co-operative society, e.g. one engaged in any scheme relating to consolidation of holdings, farming, irrigation, etc., if a large majority of others concerned with the scheme have joined as members. If so, what legal provision would you suggest for the purpose? If there is any existing provision in this regard in your law, please cite such provision.

(e) Do you consider that individual members should be eliminated from, or their numbers restricted, in the case of federal institutions such as apex co-operative banks, central co-operative banks etc.? If so, what legal provision would you suggest for that purpose?

(f) Does your law specifically provide that each member of a society shall have only one vote?

(f-i) Does your law permit enlistment of any categories of members without votes? If so, enumerate the categories, their rights and liabilities. If not, do you consider such provision necessary?

(g) Does your law provide for the voting rights of members being exercised by proxy? Do you consider it desirable to prevent or restrict such voting? If so, what legal provision would you suggest?

(10) Properties and Funds :

(a) Does your law provide for collection of share money in instalments in primary society, where necessary?

(b) Does your law restrict the grant of loans by co-operative societies to members only? Is there a provision for exceptions being made with the special sanction of the Registrar?

(c) Does your law provide for loans being given to non-members on the security of their deposits?

(d) Does your Act provide for a maximum credit limit being fixed for the borrowings of a society? If so, what is the provision?

(e) Is the borrowing limit of a member of a primary or federal society related to the value of shares held by such member in the lending society? If so, what is the proportion of the loan to the paid up value of the share? What changes, if any, are necessary in this behalf?

(f) Does your law provide that the reserve fund of any co-operative society should be invested in any particular manner? If so, what is the provision?

(g) Does your Act prohibit the division of the funds of a co-operative society otherwise than in the manner provided in the Act?

(h) Does your law regulate the distribution of profits? Do you consider the provisions in this regard satisfactory? Would you suggest any change in the allocation of profits for 'Reserve Fund' Common Good Fund, or any other funds? If so to what extent?

(i) Does your law provide for the payment of remuneration or honorarium to any of the members of the committee for clerical work or for any specific service?

(j) Does your law provide for obligatory contributions to the State Co-operative Union every year for purposes of co-operative education? If so, at what scale? What changes, if any, do you consider necessary in the present position?

(11) Audit :

(i) Does your law provide for the audit of accounts of every co-operative society once at least in every year? How often are these accounts audited in practice in respect of (a) Primary societies (b) Central societies and (c) Apex Societies? What change, if any, do you consider necessary for expeditious and satisfactory audit arrangements?

(ii) Is there a provision for the levy of audit fees on co-operative society? If so, what types of societies are assessed to audit fees and on what scale? Do you consider that the audit fee should be levied on the basis of (a) time spent on audit or (b) volume of transactions or (c) amount of profit earned or (d) any other basis?

(iii) On whom is the statutory responsibility for audit fixed under your law? If it is not fixed on the Registrar, who else is responsible for it and since when? In that case do you consider it desirable that audit should be kept outside of the purview of the Registrar? If so, please give reasons.

(12) Supervision :

(a) Does your law provide for the supervision of co-operative societies by any particular agency? If so, what are the agencies? What changes, if any, do you suggest for ensuring efficient supervision of primary credit societies under the supervision of co-operative financing Banks?

(b) What is the provision in your law for the levy of supervision fees? What is the scale of supervision fees and who is responsible for collecting them? What modifications, if any, would you suggest in your law?

(13) Inquiry and Inspection :

(i) Does your Act provide for an inquiry into the affairs of any society by the Registrar or his nominee either on his own motion or at the request of a specific number of members of the society? Do you consider these provisions satisfactory? If not, what changes would you suggest?

(ii) Does your law provide for an inspection of the books of a co-operative society on the request of a financing bank?

(14) Supersession of the Managing Committee :

Does your Act provide for the supersession of the managing committee of a co-operative society if it is not functioning properly? If so, in what circumstances, for what period and by whom? Do you consider the provision and procedure satisfactory? If not, what modification would you suggest?

(15) Dissolution :

(i) Is the existing provision in your law for the dissolution of a society satisfactory? If not, what amendments would you suggest thereto.

(ii) What suggestions would you make in order to expedite liquidation proceedings and to make them more effective? Does your law need any change in this behalf? If so, what?

(16) Surcharge :

Does your law provide for surcharging any person who has taken part in the organisation or management of a society? If so, in what circumstances? Please state the relevant provisions. Do you consider these provisions satisfactory? If not, what improvements would you suggest therein?

(17) Arbitration :

(i) Do you consider the existing provision in your law for the settlement of disputes by arbitration satisfactory? If not, what improvements would you suggest?

(ii) Is there any provision for appeals against an arbitrator's award? If so, in what circumstances, to whom and within what time? Would you suggest any alterations in these provisions?

(iii) Does your law provide for attachment of the properties of a defaulter before the award is made?

(iv) Does your law provide for the passing of interim orders and awards by the arbitrator pending the final award? If not, do you consider such provision necessary?

(18) Execution :

(a) How are arbitration awards and liquidation orders executed in your State? Is it through the co-operative Department or the Revenue Department or the Civil Courts or any other special agencies? What modifications, if any, would you suggest in this regard in particular?

(b) Would it expedite collection of arrears if arbitration awards and liquidation orders are executed through the Co-operative Department by investing that Department with the powers of a Revenue Authority or of a Civil Court in regard to attachment and sale of properties.

(c) How are sums due to Government e.g., costs of inquiry recovered? Would you recommend such recovery in the same way as amounts due under arbitration awards?

(19) Offences and Penalties :

What are the offences, if any, specified by your Act? Please catalogue them and indicate the penalties provided in respect of each such offence. Do you consider any changes necessary?

(20) Exemption from the Law :

Does your Act provide for any exemptions being given by Government from the operation of any provision of the law either by general or by special order. Do you consider it satisfactory? What principles would you suggest for granting such exemptions?

(21) Elimination of delays :

What are the provisions in your law which militate against the speedy disposal of matters connected with co-operative societies, e.g. (a) registration of societies (b) sanction of loans (c) obtaining decrees against defaulters (d) execution of awards (e) audit (f) inspection and inquiry (g) surcharge (h) dissolution of societies and (i) liquidation? What steps would you suggest for simplifying the procedure in order to avoid delays?

(22) Multi-Unit Co-operative Societies Act, 1942 :

Does any society in your state fall under the purview of this law? Have such societies experienced any difficulties as a result of the provisions of the Multi-Units Act applying to them? If so, what are your suggestions for removing these difficulties?

(23) Special provisions for certain classes of societies :

(a) Do you consider any special provisions necessary for facilitating the proper and effective functioning of the following types of co-operative societies :—

(i) Credit (ii) Marketing (iii) Processing (iv) Irrigation (v) Dairies (vi) Farming (vii) Small scale, village and other industries (viii) Consumers (ix) Labour Contract (x) Construction and Housing (xi) Transport (xii) Any other type of societies.

If so, what provisions would you suggest in this behalf in your Law? What standard bye-laws would you suggest for these categories of societies?

(b) Are any amendments necessary in any other laws in order to achieve the object referred to in (a) above? If so what?

(24) Miscellaneous :

(a) Generally, what other changes would you suggest for simplifying, rationalising and modernising your law?

(b) What are your suggestions in respect of a simple model law relating to co-operative societies for the whole country?

(c) Are there any special problems relating to the application and administration of the co-operative laws in your State? If so, what are these problems and your suggestions for solving them?

(d) Have you any suggestions to make regarding the framing of a standard set of bye-laws with a view to facilitating proper working of co-operative societies?

(e) Indicate laws other than the Co-operative Law, if any, which contain provisions relating to co-operative societies, as for instance, the Debt Relief Act. Extract sections in such other laws, dealing with co-operative societies. What modifications, if any, do you suggest to these sections.

APPENDIX III

List of persons, institutions, and authorities to whom the questionnaire on Co-operative Law was issued.

1. All State Governments,
2. All Registrars of Co-operative Societies,
3. The Reserve Bank of India,
4. The State Bank of India,
5. The Planning Commission,
6. The Ministry of Commerce & Industry,
7. The Ministry of Works, Housing & Supplies,
8. Ministry of Production,
9. The Houses of Parliament,
10. All Commodity Committee,
11. The All India Khadi and Village Industries Board,
12. All India Handloom Board,
13. The All India Handicrafts Board.
14. The Co-operative Training College at Poona and other Co-operative Training Institutions.
15. The All India Co-operative Union,
16. The Community Projects Administration,
17. All Bar Associations of High Courts, and
18. All the State Legislatures.

In addition, the Registrars of Co-operative Societies were requested to circulate copies to all the important co-operative institutions in their States such as State Co-operative Banks, federal societies, central co-operative banks, marketing societies, State Co-operative institutions, District Co-operative Boards or Unions and prominent non-official workers, etc., if necessary, after translating it in local languages.

APPENDIX IV

List of persons institutions and authorities from whom replies have been received

1. Registrar of Co-operative Societies and other Officers of the States :

1. Registrar of Co-operative Societies,
Travancore-Cochin,
Trivandrum.
2. Registrar of Co-operative Societies,
Saurashtra,
Rajkot.
3. Registrar of Co-operative Societies,
Uttar Pradesh,
Lucknow.
4. Assistant Registrar of Co-operative Societies,
Manipur.
5. Registrar of Co-operative Societies,
Coorg,
Mercara.
6. Director of Rural Development & Co-operatives,
Jammu and Kashmir,
Srinagar.
7. Registrar of Co-operative Societies,
Himachal Pradesh,
Simla.
8. Dy. Registrar of Co-operative Societies,
Bhagalpur (Bihar).
9. Registrar of Co-operative Societies,
Hyderabad State,
Hyderabad.
10. Assistant Registrar of Co-operative Societies,
Chaibasa,
Bihar.
11. Registrar of Co-operative Societies,
Rajasthan, Jaipur.
12. Co-operative Officer,
Tripura,
Agartala.
13. Registrar of Co-operative Societies,
Mysore,
Bangalore.
14. Registrar of Co-operative Societies,
Pondicherry.
15. Dy. Registrar (H.Q.),
Patna,
Bihar.
16. Registrar of Co-operative Societies,
West Bengal,
Calcutta.

17. Registrar of Co-operative Societies,
Punjab,
Jullundur.
18. Additional Registrar of Co-operative Societies,
Assam,
Shillong.
19. Registrar of Co-operative Societies,
Orissa.
20. Registrar of Co-operative Societies.
Madras State,
Madras.
21. Registrar of Co-operative Societies.
Andhra Pradesh,
Hyderabad.
22. Director of Agriculture,
Madras.
23. Dy. Registrar of Coop. Societies.
Bangalore (Mysore).
24. Secretary,
Legal Department.
Government of Rajasthan,
Jaipur.

2. State Apex Institutions :

1. M. P. Weavers Central Co-operative Society Ltd.,
Nagpur.
2. M. B. Kendriya Sahakari Sanstha, Ltd.,
Indore.
3. Tamilnada Co-operative Federation,
Coimbatore (Madras).
4. Vidarbha Co-operative Institute,
Amraoti (Bihar).
5. Kerala State Co-operative Bank Ltd.,
Trivandrum.
6. Madras State Co-operative Union Ltd.,
Madras.
7. Punjab Co-operative Union Ltd.,
Jullundur.
8. Assam Co-operative Apex Bank Ltd.,
Shillong.
9. Maharashtra Divisional Co-operative Board,
Poona.
10. The Madras State Handloom Co-operative Society Ltd.,
Madras-8.
11. Bombay Co-operative Banks' Association,
Bombay-1.
12. The State Industrial Co-operative Association Ltd.,
Bombay.

3. District and Regional Federal Societies :

1. Co-operative Land Mortgage, Bank,
Mehkar (Berar).

2. Yeotmal Central Bank, Yeotmal (Berar).
3. Central Co-operative Bank Ltd.,
Buldana (Berar).
4. Co-operative Central & Land Mortgage Bank Ltd.,
Hoshangabad (M.P.).
5. Co-operative Central & L. M. Bank Ltd.,
Sagar (M.P.).
6. Central Co-operative Bank Ltd.,
Sheopur (M.P.).
7. Central Coop. Bank Ltd.,
Shujalpur (M.B.).
8. Nadia Central Bank Ltd.,
Krishinagar.
9. Co-operative Central Bank Ltd.,
Aska, (Orissa).
10. Central Co-operative Bank Ltd.,
Khurda (Orissa).
11. Central Co-operative Bank,
Tiruchirapalli (Madras).
12. Central Co-operative Bank Ltd.,
Ratlam (M.B.).
13. Co-operative Central Bank Ltd.,
Jabalpur (M.P.).
14. Central Co-operative Bank Ltd.,
Amraoti (Berar).
15. Central Co-operative Bank,
Madurai (Madras).
16. Co-operative Central Bank Ltd.,
Nilgiris,
Madras.
17. Central Co-operative Bank Ltd.,
Bhind.
18. South Kanara Central Co-operative Bank Ltd.,
Mangalore.
19. Theni Co-operative Sale Society Ltd.,
Theni,
Madras.
20. Madras District Control Co-operative Bank,
Madras.
21. Malbar Wholesale Co-operative Stores Ltd.,
Kozhikode-1.
22. Co-operative Central Bank Ltd.,
Tanjore.
23. Co-operative Central Bank,
Vellore.
24. Co-operative Bank Ltd.,
Kota (Rajasthan).
25. Sirsa Central Co-operative Bank Ltd.
Punjab.

26. Banswara Central Co-operative Bank Ltd.,
Rajasthan.
27. District Co-operative Federation Board,
Bhagalpur.
28. Ludhiana Central Co-operative Bank Ltd.,
Ludhiana, Punjab.
29. Poona Central Co-operative Bank Ltd.,
Poona.
30. The Gaira District Central Co-operative Bank Ltd.,
Nadiad (Bombay).
31. The Sholapur Distt. Central Co-operative Bank Ltd.,
Sholapur,
Bombay.
32. The Karnal Central Co-operative Bank Ltd.,
Karnal (Punjab).

4. Co-operative Training Institutions :

1. Principal,
Central Co-operative Institute,
Tirupathi.
2. Principal,
Co-operative Training School,
Mysore.
3. Principal,
Travancore Co-operative College,
Trivandrum.
4. Principal,
Co-operative Training Institute,
Cuttack.
5. Principal,
Co-operative Training Institute,
Nagpur and Jabalpur.
6. Principal,
Co-operative Training Institute,
Pusa (Bihar).
7. Principal,
Subordinate Co-operative Training School,
Agar (M. B.).
8. Principal,
Co-operative Training College,
Poona.
9. Principal,
Ramlingam Co-operative Institute,
Coimbatore.
10. Principal,
Samriappa Co-operative Institute,
Tanjore.
11. Principal,
Department Co-operative Training Centre,
Trivandrum.

5. Bar Associations :

1. Madras State Bar Association,
Madras.
2. West Khandesh Bar Association,
Dhulia.

3. Advocates Association of Western India,
High Court,
Bombay.

6. Co-operative Societies and other bodies :

1. Indian Central Arecanut Committee,
Kozikode.
2. Bhucho Co-operative Cotton Development & Marketing Society Ltd.,
Bhucho Mandi,
(Ferozepur).
3. All India Khadi & Village Industries Board,
Bombay-1.
4. Haryana Co-operative Sugar Mills Ltd.,
Rohtak (Punjab).
5. Bhusawal Peoples Co-operative Bank Ltd.,
Bhusawal (Bombay.)

7. Individuals :

1. Shri Balakrishna Atri,
Simla Hills.
2. Shri S. Ahmed,
Balasore (Orissa).
3. Shri Sitaramayya,
Bhubaneshwar,
(Orissa).
4. Shri S. C. Roy,
Orissa.
5. Shri K. Acharya,
Bargarh,
Orissa.
6. Shri W.V.V.B. Ramlingam,
Cuttack,
Orissa.
7. Shri P. Rajgopala Ayyer,
Tirunerveli,
Madras.
8. Shri H. S. M. Bhramrbar Deo,
Bhubaneshwar,
Orissa.
9. M. S. Shehachalam Aiyar,
Tiruvannamalai,
Madras.
10. Rao Sahib N. K. Bhattacharya,
Berhampore,
West Bengal.
11. Shri S. N. Seal,
Hili,
West Bengal.

12. Shri D. D. Chitale,
Poona.
 13. Dr. V. Krishnan,
Poona.
 14. Prof. S. V. Ayyar,
Annamalainagar,
Madras.
 15. Shri G. Chittrumbalam,
Tirucharapalli,
Madras.
 16. Shri P. Keshava Rao,
Kurnool,
Andhra.
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APPENDIX V

A List of Co-operative Societies Acts in force in the different States.

1. The Co-operative Societies Act, 1912.
2. The Bombay Co-operative Societies Act, 1925.
3. The Madras Co-operative Societies Act, 1932.
4. The Bihar & Orissa Co-operative Societies Act, 1935.
5. The Coorg Co-operative Societies Act, 1936.
6. The Bengal Co-operative Societies Act, 1940.
7. The Tripura Co-operative Societies Act, 1948.
8. The Mysore Co-operative Societies Act, 1948.
9. The United States of Gwalior. Indore & Malwa Co-operative Societies Act, 1949.
10. The Assam Co-operative Societies Act, 1949.
11. The Vindhya Pradesh Co-operative Societies Act, 1949.
12. The Orissa Co-operative Societies Act, 1951.
13. The Travancore-Cochin Co-operative Societies Act, 1951.
14. The Hyderabad Co-operative Societies Act, 1952.
15. The Rajasthan Co-operative Societies Act, 1953.
16. The Punjab Co-operative Societies Act, 1954.
17. The Himachal Pradesh Co-operative Societies Act, 1956.
18. The Bhopal Co-operative Societies Act.
19. The Co-operative Societies Regulations, Jammu & Kashmir (No. 6 of 1993 Vikram).

LAND MORTGAGE BANKS ACTS

1. The Madras Co-operative Land Mortgage Banks Act, 1934.
 2. The C. P. Co-operative Land Mortgage Banks Act, 1937.
 3. The Hyderabad Co-operative Land Mortgage Banks Act, 1954.
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MODEL CO-OPERATIVE SOCIETIES BILL

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CO-OPERATIVE SOCIETIES BILL

A BILL

to consolidate and amend the law relating to co-operative societies

Be it enacted by the.....Legislature as follows :

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the.....Co-operative Societies Act, 1957.

(2) It extends to the whole of the State of.....

(3) It shall come into force on such date as the State Government may, by notification in the official gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires :—

(a) 'bye-laws' means the registered bye-laws for the time being in force;

(b) 'committee' means the governing body of a co-operative society, by whatever name called, to which the management of the affairs of the society is entrusted;

(c) 'co-operative society' means a society registered or deemed to be registered under this Act;

(d) 'co-operative society with limited liability' means a co-operative society, in which the liability of its members, for the debts of the society in the event of its being wound up, is limited by its bye-laws—

(i) to the amount, if any, unpaid on the shares respectively held by them; or

(ii) to such amount as they may, respectively, undertake to contribute to the assets of the society;

(e) 'co-operative society with unlimited liability' means a co-operative society, the members of which are, in the event of its being wound up, jointly and severally liable for and in respect of all its obligations and to contribute to any deficit in the assets of the society;

(f) 'member' means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws, and includes a nominal and an associate member;

(g) 'officer' means the President, Vice-President, Chairman, Vice-Chairman, Secretary, Manager, Member of Committee, Treasurer, Liquidator, Administrator and includes any other person empowered under the rules and the bye-laws to give directions in regard to the business of a co-operative society;

(h) 'prescribed' means prescribed by rules made under this Act;

(i) 'Registrar' means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar;

(j) 'rules' means the rules made under this Act;

(k) 'Tribunal' means the tribunal constituted under section 100.

REGISTRATION OF CO-OPERATIVE SOCIETIES

3. Registrar.—(1) The State Government may appoint a person to be the Registrar of Co-operative Societies for the State and may appoint other persons to assist him.

(2) The State Government may, by general or special order, confer on any person appointed to assist the Registrar, all or any of the powers of the Registrar under this Act.

(3) Every person appointed to assist the Registrar shall exercise the powers conferred on him under sub-section (2), subject to the general superintendence and control of the Registrar.

4. Societies which may be registered.—Subject to the provisions of this Act, a co-operative society which has as its objects the promotion of the economic interests of its members in accordance with co-operative principles, or a co-operative society established with the object of facilitating the operations of such a society, may be registered under this Act.

5. Registration with limited or unlimited liability.—(1) A co-operative society may, subject to the provisions of sub-section (2) be registered with or without limited liability.

(2) Unless the State Government by general or special order otherwise directs,—

(a) a co-operative society shall be registered with limited liability if any of its members is another co-operative society;

(b) no co-operative society shall be registered with limited liability, if

(i) its primary object is the creation of funds to be lent to its members;

(ii) the majority of its members are agriculturist; and

(iii) none of the members is a co-operative society.

(3) The word 'limited' or its equivalent in any Indian language shall be the last word in the name of a co-operative society registered under this Act with limited liability.

6. Application for registration of co-operative societies.—(1) An application for the registration of a co-operative society shall be made to the Registrar in such form as the Registrar may, from time to time, specify; and the applicants shall furnish to him all such information about the society as he may require.

(2) Every such application shall conform to the following requirements, namely :—

(a) the application shall be accompanied by three copies of the proposed bye-laws of the co-operative society,

(b) where all the applicants are individuals, the number of applicants shall not be less than ten,

- (c) everyone of the applicants who is an individual shall be above the age of eighteen years,
- (d) where the objects of the co-operative society include the creation of funds to be lent to its members and where all the applicants are individuals, the applicants shall reside in same village or town or in the same group of villages or belong to the same class or pursue the same occupation,
- (e) the application shall be signed by everyone of the applicants who is an individual and by a person duly authorised on behalf of any co-operative society which is an applicant.

7. Registration.—(1) If the Registrar is satisfied—

- (a) that the application complies with the provisions of this Act and the rules,
- (b) that the objects of the proposed society are in accordance with section 4,
- (c) that the aims of the proposed society are not inconsistent with the principles of social justice,
- (d) that the proposed bye-laws are not contrary to the provisions of this Act and the rules, and
- (e) that the proposed society complies with the requirements of sound business and has reasonable chances of success,

the Registrar may register the co-operative society and its bye-laws.

(2) Where the Registrar refuses to register a co-operative society he shall communicate the order of refusal together with the reasons therefor, to such of the applicants as may be prescribed.

8. Registration certificate.—Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is a co-operative society duly registered under this Act.

9. Co-operative societies to be bodies corporate.—The registration of a co-operative society shall render it a body corporate by the name under which it is registered, having perpetual succession and a common seal, and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

10. Change of name of co-operative society.—(1) A co-operative society may, by an amendment of its bye-laws, change its name.

(2) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in the place of the former name and shall amend the certificate of registration accordingly.

(3) The change of name of a co-operative society shall not affect any rights or obligations of the co-operative society, or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the society by its former name may be continued or commenced by its new name.

11. Change of liability.—(1) Subject to the provisions of this Act and the rules, a co-operative society may, by an amendment of its bye-laws, change the form or extent of its liability.

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-law or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the change.

(4) An amendment of the bye-laws of a co-operative society changing the form or extent of its liability shall not be registered or take effect until, either :—

- (a) the assent thereto of all members and creditors has been obtained; or
- (b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

12. Amendment of bye-laws of a co-operative society.—(1) No amendment of any bye-law of a co-operative society shall be valid unless such amendment has been registered under this Act.

(2) Every proposal for such amendment shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment—

- (i) is not contrary to the provisions of this Act and the rules,
- (ii) does not conflict with co-operative principles,
- (iii) satisfies the requirements of sound business,
- (iv) will promote the economic interests of the members of the society, and
- (v) is not inconsistent with the principles of social justice, he may register the amendment.

(3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal, together with the reasons therefor, to the society.

13. When amendments of bye-laws come into force.—An amendment of the bye-laws of a co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

14. Amalgamation, transfer of assets and liabilities and division of co-operative societies.—(1) A co-operative society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of the society—

- (a) transfer its assets and liabilities in whole or in part to any other co-operative society;
- (b) divide itself into two or more co-operative societies.

(2) Any two or more co-operative societies may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of each such society amalgamate themselves and form a new co-operative society.

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) When a co-operative society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-laws or contract to the contrary, any member or creditor shall during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a co-operative society under this section shall not take effect until, either—

- (a) the assent thereto of all the members and creditors has been obtained; or
- (b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein, have been met in full.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

15. Cancellation of registration certificates of co-operative societies in certain cases.—(1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 14, the registration of the first mentioned co-operative society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 14, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a co-operative society divides itself into two or more co-operative societies in accordance with the provisions of section 14, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

16. Persons who may become members.—(1) No person shall be admitted as a member of a co-operative society except the following, namely,—

- (a) an individual competent to contract under section 11 of the Indian Contract Act, 1872 (9 of 1872);
- (b) any other co-operative society; and
- (c) the State Government.

(2) Where a person is refused admission as a member in a co-operative society, the decision refusing admission shall be communicated by the society to that person within seven days of the date of the decision.

17. Nominal or associate members.—(1) A co-operative society may admit any individual as a nominal or associate member.

(2) A nominal member shall not be entitled to any share in any form whatsoever, in the assets or profit of the society.

(3) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

18. Member not to exercise rights till due payment made.—No member of a co-operative society shall exercise the rights of a member unless he has made such payments to the society in respect of membership or has acquired such interest in the society, as may be specified in the bye-laws.

19. Votes of members.—Every member of a co-operative society shall have one vote in the affairs of the society;

Provided that,—

- (a) a nominal or associate member shall not have the right of vote;
- (b) where the State Government is a member of the co-operative society, each person nominated by the State Government on the Committee of the co-operative society shall have one vote.

20. Manner of exercising vote.—(1) Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society which is a member of another co-operative society may, subject to any rules made under this Act, appoint one of its members to vote on its behalf in the affairs of that other society.

21. Restrictions on holding of shares.—In any co-operative society, no member other than the State Government or any other co-operative society, shall,—

- (a) hold more than such portion of the total share capital of the society not exceeding one-fifth thereof, as may be prescribed, or
- (b) have or claim any interest in the shares of the society exceeding five thousand rupees :

Provided that the State Government, may by notification in the official gazette, specify in respect of any class of co-operative societies a higher maximum than one-fifth of the share capital or a higher amount than five thousand rupees, as the case may be.

22. Restrictions on transfer of shares or interest.—(1) The transfer of a share or interest of a member in the capital of a co-operative society shall be subject to such conditions and restrictions as to the maximum holdings as are specified in section 21.

(2) No transfer by a member of his share or interest in a co-operative society shall be valid unless,—

- (a) the member has held such share or interest for not less than one year;
- (b) the transfer is made to a member of the society; and
- (c) the transfer is approved by the Committee of the society.

23. Transfer of interest on death of member.—(1) On the death of a member of a co-operative society, the society shall transfer the share or interest of the deceased member to the person or persons nominated in accordance with the rules, or, if no person has been so nominated, to such person as may appear to the Committee to be the heir or legal representative of the deceased member :

Provided that such nominee, heir or legal representative, as the case may be, is admitted as a member of the society :

Provided further that nothing in this sub-section shall prevent a minor or a person of unsound mind from acquiring by inheritance or otherwise the share or interest of a deceased member in a co-operative society.

(2) Notwithstanding anything contained in sub-section (1) any such nominee, heir, or legal representative, as the case may be, may require the society to pay to him the value of the share or interest of the deceased member ascertained in accordance with the rules.

(3) A co-operative society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(4) All transfers and payments made by a co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

24. Liability of past member and estate of deceased member.--

(1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a co-operative society for the debts of the society as they existed—

(a) in the case of a past member, on the date on which he ceased to be a member;

(b) in the case of a deceased member on the date of his death

shall continue for a period of two years from such date.

(2) Where a co-operative society is ordered to be wound up under section 67, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or death, as the case may be.

MANAGEMENT OF CO-OPERATIVE SOCIETIES

25. Final authority in a co-operative society.—The final authority in a co-operative society shall vest in the general body of members :

Provided that, where the bye-laws of a co-operative society provide for the constitution of a smaller body consisting of delegates of members of the society elected in accordance with such bye-laws, the smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society :

Provided further that nothing in this section shall affect any powers conferred on a committee or any officer of a co-operative society by the rules or the bye-laws.

26. Annual general meeting.—A general meeting of a co-operative society shall be held once in a year for the purpose of—

- (a) approval of the programme of the activities of the society prepared by the Committee for the ensuing year;
- (b) election, if any, in the prescribed manner of the members of the Committee other than nominated members;
- (c) consideration of the audit report and the annual report;
- (d) disposal of the net profits; and
- (e) consideration of any other matter which may be brought forward in accordance with the bye-laws.

27. Special general meetings.—(1) The Committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be prescribed.

(2) If a special general meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf, shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the Committee.

28. Nominees of the Government on the Committee of a co-operative society.—(1) Where the State Government—

- (a) has subscribed to the share capital of a co-operative society, or
- (b) has assisted indirectly in the formation or augmentation of the share capital of a co-operative society as provided in Chapter VI, or
- (c) has guaranteed the repayment of principal and payment of interest on debentures issued by a co-operative society, or
- (d) has guaranteed the repayment of principal and payment of interest on loans and advances to a co-operative society,

the State Government or any authority specified by the State Government in this behalf, shall have the right to nominate not more than three members or one-third of the total number of members of the Committee of the co-operative society, whichever is less.

(2) A member nominated on the Committee of a co-operative society under sub-section (1), shall hold office during the pleasure of the State Government or the specified authority, as the case may be.

29. Supersession of Committee.—(1) If, in the opinion of the Registrar, the Committee of any co-operative society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interests of the society or its members, or is otherwise not functioning properly, the Registrar may, after giving the Committee an opportunity to state its objections, if any, by order in writing, remove the Committee; and—

- (a) appoint a new Committee consisting of one or more members of the society in its place, or
- (b) appoint one or more Administrators who need not be members of the society,

to manage the affairs of the society for a period not exceeding two years specified in the order which period may, at the discretion of the Registrar be extended from time to time, so however, that the aggregate period does not exceed four years.

(2) The Committee or Administrators so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the Committee or of any officer of the society and take all such action as may be required in the interests of the society.

(3) The Committee or Administrators shall, at the expiry of its or their term of office, arrange for the constitution of a new Committee in accordance with the bye-laws of the society.

(4) Before taking any action under sub-section (1) in respect of a co-operative society, the Registrar shall consult any financing institution to which it is indebted.

30. Securing possession of records, etc.—(1) If the Committee of a co-operative society is reconstituted at a general meeting of the society or the Committee of a co-operative society is removed by the Registrar under section 29 or if the society is ordered to be wound up under section 67 and the outgoing members of the Committee refuse to hand over charge of the records and property of the society to the new Committee or the Administrators or the liquidator, as the case may be, the new Committee or the Administrators or the liquidator may apply to the magistrate, within whose jurisdiction the society functions, for securing the records and property of the society.

(2) On receipt of an application under sub-section (1), the magistrate may, by a warrant authorise any police officer, not below the rank of Sub-inspector, to enter and search any place where the records and the property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the new Committee or Administrators of the society or the liquidator, as the case may be.

CHAPTER V

PRIVILEGES OF CO-OPERATIVE SOCIETIES

31. First charge of co-operative society on certain assets.—(1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available as against any claim of the Government arising from a loan granted under the Land Improvement Loans Act 1883 (19 of 1883) or the Agriculturists Loans Act, 1884, (12 of 1884) after the grant of the loan by the society.

32. Deduction from salary to meet society's claim in certain cases.—(1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in favour of the society provided that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such an agreement the employer shall, if so required by the co-operative society by requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amounts so deducted to the society within fourteen days from the date of the deduction.

33. Charge and set-off in respect of shares or interest of members in the capital of a co-operative society.—A co-operative society shall have a charge upon the share or interest in the capital and on the deposits of a member or a past member and on any dividend, bonus or profits payable to a member or a past member in respect of any debt or outstanding demand owing to the co-operative society and may set-off any sum credited or payable to a member towards payment of any such debt or outstanding demand :

Provided that no financing bank to which a co-operative society is affiliated shall have a charge upon any sum invested in the financing bank as reserve fund by the society if the bank is not the sole creditor of the society, or be entitled to set off any such sum credited or payable to the society towards any debt due from such society.

34. Shares or interest not liable to attachment.—Subject to the provisions of section 33 the share or interest of a member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member or past member, and an official assignee or a receiver under any law relating to insolvency shall not be entitled to, or have any claim on, such share or interest.

35. Exemption from certain taxes, fees and duties.—(1) The Central Government may, by notification in the official gazette, remit the income tax payable in respect of the profits of any class of co-operative societies or the dividends or other payments received by members of any class of such societies on account of profits.

(2) The Government may, by notification in the official gazette remit in respect of any class of co-operative societies,—

- (a) the stamp duty chargeable under any law for the time being in force in respect of any instrument executed by or on behalf of a co-operative society or by an officer or member thereof and relating to the business of such society, or any class of such instruments or in respect of any award or order made under this Act, in cases where, but for such remission the co-operative society, officer or member, as the case may be, would be liable to pay such stamp duty;
- (b) any fee payable under any law for the time being in force relating to the registration of documents or court fees.

Explanation.—In this sub-section 'Government' means in relation to stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts, the Central Government and save as aforesaid the State Government.

(3) The State Government may, by notification in the official gazette, exempt any class of co-operative societies from taxes on.

- (a) agricultural income,
- (b) sale or purchase of goods, and
- (c) professions, trades, callings and employments.

36. Exemption from compulsory registration of instruments.—Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (16 of 1908) shall apply to—

- (a) any instrument relating to shares in a co-operative society, notwithstanding that the assets of the society consist in whole or in part of immoveable property; or
- (b) any debentures issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title of interest to or in immoveable property, except in so far as it entitles the holder to the security afforded by a

registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(c) any endorsement upon or transfer of any debenture issued by any such society.

CHAPTER VI

STATE AID TO CO-OPERATIVE SOCIETIES

37. Promotion of co-operative movement.—It shall be the duty of the State Government to encourage and promote the co-operative movement in the State and to take such steps in this direction as may be necessary.

38. Direct partnership of State Government in co-operative societies.—(1) The State Government may subscribe directly to the share capital of a co-operative society with limited liability.

(2) Notwithstanding any agreement to the contrary, the State Government shall not be entitled to a dividend on the shares of any such co-operative society at a rate higher than that at which such dividend is payable to any other shareholder of the society.

39. Indirect partnership of State Government in co-operative societies.—The State Government may, subject to appropriation by-law, provide moneys to a co-operative society (hereinafter in this Chapter referred to as apex society) for the purchase of shares in other co-operative societies with limited liability.

40. Principal State Partnership Fund.—(1) An apex society which is provided with moneys by the State Government under section 39 shall, with such moneys, establish a Fund to be called the 'Principal State Partnership Fund'.

(2) An apex society shall utilise the 'Principal State Partnership Fund' for the purpose of—

- (a) directly purchasing shares in other co-operative societies with limited liability;
- (b) providing moneys to a co-operative society (hereinafter in this Chapter referred to as central society) to enable that society to purchase shares in other co-operative societies with limited liability (hereinafter in this Chapter referred to as primary societies);
- (c) making payments to the State Government in accordance with the provisions of this Chapter:

and for no other purpose.

41. Subsidiary State Partnership Fund.—(1) A central society which is provided with moneys by an apex society from the 'Principal State Partnership Fund' shall, with such moneys, establish a Fund to be called the 'Subsidiary State Partnership Fund'.

(2) A central society shall utilise the 'Subsidiary State Partnership Fund' for the purpose of—

- (a) purchasing shares in primary societies;
- (b) making payments to the apex society in accordance with the provisions of this Chapter;

and for no other purpose.

42. Approval of State Government for purchase of shares.—No shares shall be purchased in a co-operative society from the moneys in the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund', except with the previous approval in writing of the State Government.

43. Liability to be limited in respect of certain shares.—Where any shares are purchased in a co-operative society by—

(a) the State Government; or

(b) an apex society or a central society from the 'Principal State Partnership Fund' or the 'Subsidiary State Partnership Fund', as the case may be,

the liability in respect of such shares shall, in the event of the co-operative society being wound up, be limited to the amount paid in respect of such shares.

44. Restrictions on amount of dividend.—An apex society which has purchased shares in other co-operative societies from the moneys in the 'Principal State Partnership Fund' and a central society which has purchased shares in primary societies from the moneys in the 'Subsidiary State Partnership Fund', shall be entitled only to such dividend on the said shares as is declared by the society concerned and is payable to other shareholders of that society.

45. Indemnity of apex and central societies.—(1) If a co-operative society in which shares are purchased from the 'Principal State Partnership Fund' is wound up or is dissolved, the State Government shall not have any claim against the apex society which purchased the shares in respect of any loss arising from such purchase: but the State Government shall be entitled to any moneys received by the apex society in liquidation proceedings or on dissolution, as the case may be.

(2) If a co-operative society in which shares are purchased from the 'Subsidiary State Partnership Fund' is wound up or is dissolved, neither the State Government nor the apex society shall have any claim against the central society which purchased the shares in respect of any loss arising from such purchase; but the apex society shall be entitled to any moneys received by the central society in liquidation proceedings or on dissolution, as the case may be, and such moneys shall be credited to the 'Principal State Partnership Fund'.

46. Disposal of share capital and dividend etc.—(1) All moneys received by an apex society in respect of shares of other co-operative societies purchased from the moneys in the 'Principal State Partnership Fund' on redemption of such shares or by way of dividends or otherwise, shall be credited to that Fund.

(2) All moneys received by a central society in respect of shares of primary societies purchased from the moneys in the 'Subsidiary State Partnership Fund' on redemption of such shares or by way of dividends or otherwise, shall in the first instance be credited to that Fund and then transferred to the apex society which shall credit them to the 'Principal State Partnership Fund'.

(3) All moneys and dividends referred to in sub-section (1) and sub-section (2) shall, notwithstanding that the shares stand in the name of the apex society or the central society, as the case may be, be paid to the State Government.

(4) Save as provided in sub-section (3), the State Government shall not be entitled to any other return on the moneys provided by it to an apex society under section 39.

47. Disposal of 'Principal State Partnership Fund' and 'Subsidiary State Partnership Fund' on winding up of an apex or a central society.—(1) If an apex society which has established a 'Principal State Partnership Fund' is wound up or is dissolved, all moneys to the credit of, or payable to, that Fund shall be paid to the State Government.

(2) If a central society which has established a 'Subsidiary State Partnership Fund' is wound up or is dissolved, all moneys to the credit of, or payable to that Fund shall be paid and credited to the 'Principal State Partnership Fund' from which it received moneys under clause (b) of sub-section (2) of section 40.

48. Principal State Partnership Fund and Subsidiary State Partnership Fund not to form part of assets.—Any amount to the credit of a 'Principal State Partnership Fund' or a 'Subsidiary State Partnership Fund' shall not form part of the assets of the apex society or the central society, as the case may be.

49. Agreement by State Government and apex societies.—Subject to the foregoing provisions of this Chapter—

- (a) The State Government may enter into an agreement with an apex society setting out the terms and conditions on which it shall provide moneys to the apex society for the purpose specified in section 41;
- (b) an apex society may, with the previous approval of the State Government, enter into an agreement with a central society, setting out the terms and conditions on which it shall provide moneys to that society from the 'Principal State Partnership Fund' for the purpose specified in clause (b) of sub-section (2) of section 40.

50. Other forms of State aid to co-operative societies.—Notwithstanding anything contained in any law for the time being in force, the State Government may—

- (a) give loans or make advances to co-operative societies;
- (b) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;
- (c) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the State Government;
- (d) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and
- (e) give financial assistance in any other form, including subsidies, to any co-operative society.

51. Provisions of this Chapter to override other laws.—The provisions of sections 39 to 49 of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

52. Funds not to be divided.—No part of the funds other than the net profits of a co-operative society shall be paid by way of bonus or dividend or otherwise distributed among its members:

Provided that a member may be paid remuneration on such scale as may be laid down by the bye-laws for any services rendered by him to the co-operative society.

53. Disposal of net profits.—(1) A co-operative society shall, out of its net profits in any year—

- (a) transfer an amount not being less than twenty-five per cent. of the profits to the reserve fund; and
- (b) credit such portion of the profits, as may be prescribed, to the Co-operative Education Fund constituted under the rules.

(2) The balance of the net profits may be utilised for all or any of the following purposes, namely,—

- (a) payment of dividend to members on their paid-up share capital at a rate not exceeding the prescribed limit;
- (b) payment of bonus to members on the amount or volume of business done by them with the society, to the extent and in the manner specified in the bye-laws;
- (c) constitution of, or contributions to, such special funds as may be specified in the bye-laws;
- (d) donations of amounts not exceeding ten per cent. of the net profits for any charitable purpose as defined in section 2 of Charitable Endowments Act, 1890 (6 of 1890); and
- (e) payment of bonus to employees of the society, to the extent and in the manner specified in the bye-laws.

54. Investment of funds.—A co-operative society may invest or deposit its funds,—

- (a) in Government Savings Bank, or
- (b) in any of the securities specified in section 20 of the Indian Trust Act, 1882 (2 of 1882), or
- (c) in the shares or securities of any other co-operative society, or
- (d) with any bank or person carrying on the business of banking, approved for this purpose by the Registrar, or
- (e) in any other mode permitted by the rules.

55. Restrictions on borrowings.—A co-operative societies shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

56. Restrictions on loans.—(1) A co-operative society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar, a co-operative society may make loans to another co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make a loan to a depositor on the security of his deposit.

57. Restrictions on other transactions with non-members.—Save as is provided in sections 55 and 56, the transactions of a co-operative society with persons other than members shall be subject to such restrictions, if any, as may be prescribed.

58. Provident Fund.—(1) A co-operative society may establish a contributory Provident Fund for the benefit of its employees to which shall be credited all contributions made by the employees and the society in accordance with the bye-laws of the society.

(2) A contributory Provident Fund established by a co-operative society under sub-section (1),—

- (a) shall not be used in the business of the society,
- (b) shall not form part of the assets of the society, and
- (c) shall not be liable to attachment or be subject to any other process of any court or other authority.

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

59. **Audit.**—(1) The Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every co-operative society at least once in each year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.

(3) The Registrar or the authorised person shall at all times have access to all the books, accounts, documents, papers, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, papers, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every person who is, or has at any time been, an officer or employee of the society and every member and past member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him may require.

60. Communication of defects in audit to co-operative societies.—

(1) If the result of the audit held under section 59 discloses any defects in the working of a co-operative society, the Registrar may bring such defects to the notice of the society and if the society is affiliated to another co-operative society also to the notice of that other society.

(2) The Registrar may make an order directing the society or its officers to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed in the audit.

61. **Inquiry by Registrar.**—(1) The Registrar may of his own motion, by himself or by a person authorised by him by order in writing, hold an inquiry into the constitution, working and financial condition of a co-operative society.

(2) An inquiry of the nature referred to in sub-section (1) shall be held on the application of,—

- (a) a co-operative society to which the society concerned is affiliated;
- (b) a majority of the members of the committee of the society
or
- (c) not less than one-third of the total number of members of the society.

(3) The Registrar, or the person authorised by him under subsection (1) shall, for the purposes of an inquiry under this section, have the following powers, namely,—

- (a) he shall, at all times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof;
- (b) he may summon any person who he has reason to believe has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and
- (c) (i) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him, and where the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself;
- (ii) any meeting called under clause (i) shall have all the powers of a general meeting called under the bye-laws of the society and its proceedings shall be regulated by such bye-laws except that no quorum shall be necessary for such meeting.

(4) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the society and to the co-operative society, if any, to which that society is affiliated.

62. Inspection of books of a co-operative society.—(1) The Registrar may of his own motion, or on the application of a creditor of a co-operative society, inspect or direct any person authorised by him by order in writing in this behalf, to inspect the books of the society;

Provided that no such inspection shall be made on the application of a creditor unless the applicant,—

- (a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
- (b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the results of any such inspection:—

- (a) where the inspection is made of his own motion, to the society, and
- (b) where the inspection is made on the application of a creditor, to the creditor and the society.

63. Costs of inquiry.—Where an inquiry is held under section 61, or an inspection is made under section 62 on the application of a creditor, the Registrar may apportion the costs, or such part of the costs as he may deem fit, between the co-operative society to which the society concerned is affiliated, the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society;

.. Provided that—

- (a) no order of apportionment of the costs shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard;
- (b) the Registrar shall state in writing the grounds on which the costs are apportioned.

64. Surcharge.—(1) If in the course of an audit, inquiry, inspection or the winding up of a co-operative society, it is found that any person, who is or was entrusted with the organization or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may, of his own motion or on the application of the Committee, liquidator or any creditor, inquire himself or direct any person authorized by him, by an order in writing in this behalf, to inquire into the conduct of such person:

.. Provided that no such inquiry shall be held after the expiry of six years from the date of any act or omission referred to in this sub-section.

(2) Where an inquiry is made under sub-section (1) the Registrar may, after giving the person concerned an opportunity of being heard, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

CHAPTER IX

SETTLEMENT OF DISPUTES

65. Disputes which may be referred to arbitration.—(1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises—

- (a) among members, past members and persons claiming through members, past members and deceased members, or
- (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society, or
- (c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or
- (d) between the society and any other co-operative society, such dispute shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely—

- (a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;
- (b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;
- (c) any dispute arising in connection with the election of any officer of the society.

(3) If any question arises whether a dispute referred to the Registrar under this Section is a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

66. Reference of disputes to arbitration.—(1) The Registrar may, on receipt of the reference of a dispute under section 65,

- (a) decide the dispute himself, or
- (b) transfer it for disposal to any person who has been invested by the State Government with powers in that behalf, or
- (c) refer it for disposal to one arbitrator.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interests of justice.

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

67. Winding up of co-operative societies.—(1) If the Registrar, after an inquiry has been held under section 61, or an inspection has been made under section 62 or on receipt of an application made by not less than three-fourths of the members of a co-operative society, is of opinion that the society ought to be wound up, he may issue an order directing it to be wound up.

(2) The Registrar may of his own motion make an order directing the winding up of a co-operative society.

- (a) where it is a condition of the registration of the society that the society shall consist of at least ten members and the number of members has been reduced to less than ten; or
- (b) where the co-operative society has not commenced working or has ceased to work.

(3) The Registrar may cancel an order for the winding up of a co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.

68. Liquidator.—(1) Where the Registrar has made an order under section 67 for the winding up of a co-operative society, he may appoint a liquidator for the purpose and fix his remuneration.

(2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to, such property, effects and claims.

(3) Where an appeal is preferred under section 102, an order of winding up of a co-operative society made under section 67 shall not operate thereafter until the order is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall revert in the society.

69. Powers of liquidator.—(1) Subject to any rules made in this behalf the whole of the assets of a co-operative society in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 68 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

(2) Such liquidator shall also have power, subject to the control of the Registrar—

- (a) to institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of his office;
- (b) to determine from time to time the contribution (including debts due) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society;
- (c) to investigate all claims against the co-operative society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;
- (d) to pay claims against the co-operative society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;
- (e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;
- (f) to determine whether any person is a member, past member or nominee of deceased member;
- (g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;
- (h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;
- (i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable; and
- (j) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims present or future certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a co-operative society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

70. **Cancellation of registration of a co-operative society.**—Where in respect of a co-operative society which has been ordered to be wound up under section 67, no liquidator has been appointed under section 68 after two months from the date of such order, or if an appeal has been filed from the date of confirmation of the order in appeal, or where the affairs of a co-operative society in respect of which a liquidator has been appointed under section 68, have been wound up, the Registrar shall make an order cancelling the registration of the society and the society shall be deemed to be dissolved and shall cease to exist as a corporate body from the date of such order of cancellation.

CHAPTER XI
LAND MORTGAGE BANKS

71. **Definitions.**—In this Chapter,—

- (a) 'Board' means the Board of Directors of the State Land Mortgage Bank;
- (b) 'Land mortgage bank' means a co-operative land mortgage bank registered or deemed to be registered under this Act and admitted as a member of the State Land Mortgage Bank;
- (c) 'State Land Mortgage Bank' means the.....Co-operative Central Land Mortgage Bank, Limited.
- (d) 'Trustee' means the Trustee referred to in section 72.

72. **Appointment of Trustee and his powers and functions.**—(1) The Registrar, or where the State Government appoint any other person in this behalf, such person, shall be the Trustee for the purpose of securing the fulfilment of the obligations of the State Land Mortgage Bank to the holders of debentures issued by the Board.

(2) The powers and functions of the Trustee shall be governed by the provisions of this Act and by the instrument of trust executed between the Bank and the Trustee as modified from time to time by mutual agreement between the Board and the Trustee.

73. **Trustee to be a corporation sole.**—The Trustee appointed under section 72 shall be a corporation sole by the name of the Trustee for the debentures and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

74. **Issue of debentures by the Board.**—(1) With the previous sanction of the Trustee, the Board may from time to time issue debentures of one or more denominations for such periods as it may deem expedient, on the security of the mortgages and other assets transferred or deemed under the provisions of section 80 to have been transferred by the land mortgage banks to the State Mortgage Bank and other properties of such Bank.

(2) Such debentures may contain a term fixing a period not exceeding ten years from the date of issue during which they shall be irredeemable, or reserving to the Board the right to call in at any time any of the debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months' notice, in writing.

(3) The total amount due on the debentures issued by the Board and outstanding at any time shall not exceed the aggregate of—

- (a) the amounts due on the mortgages, and the value of the other assets, transferred or deemed under the provisions of section 80 to have been transferred by the land mortgage banks to the State Land Mortgage Bank and subsisting at such time; and
- (b) the amounts paid under the mortgages aforesaid and remaining in the hands of the Board or of the Trustee at that time.

75. Charge of debenture-holders on certain properties.—The holders of the debentures shall have a floating charge on—

- (a) all such mortgages and assets as are referred to in clause (a) of sub-section (3) of section 74;
- (b) the amount paid under such mortgages and remaining in the hands of the Board or of the Trustee; and
- (c) the other properties of the State Land Mortgage Bank.

76. Guarantee by State Government of principal of, and interest on, debentures.—(1) The Principal of, and interest on, the debentures issued under section 74 shall in respect of such maximum amount as may be fixed by the State Government and subject to such conditions as it may think fit to impose, carry the guarantee of the State Government.

(2) The State Government may, subject to any law of legislature of the State, increase the maximum amount of any guarantee given under sub-section (1).

(3) The State Government may, after consulting the Board and the Trustee,—

- (a) by notification in the official gazette; and
- (b) by notice of not less than fourteen days in such of the principal newspapers in the State and of other States in India as the State Government may select in this behalf;

discontinue any guarantee given by it or restrict the maximum amount thereof or modify the conditions, subject to which it is given, with effect from a specified date, not being earlier than six months from the date of the publication of the notification in the official gazette:

Provided that the withdrawal, restriction or modification of any guarantee under this sub-section, shall not in any way affect the guarantee carried by any debentures issued prior to the date on which such withdrawal, restriction or modification takes effect.

(4) Every notification and notice referred to in sub-section (3) shall, where the maximum amount of the guarantee is to be restricted, or the conditions subject to which the guarantee is given are to be modified, set forth precisely the scope and effect of the restriction or modification, as the case may be.

77. Other guarantees by State Government.—Where a State Land Mortgage Bank or a land mortgage bank has given a loan to a member for the development of any land in excess of the amount of the loan to the which such member would be entitled on the basis of the value of the land as determined in accordance with the principles of valuation approved by the State Government, the State Government may guarantee for a specified period the repayment of the loan to the extent of the excess.

78. Priority of mortgage over certain claims.—A mortgage executed in favour of a land mortgage bank shall have priority over any claim of the Government arising from a loan under the Land Improvement Loans Act 1883, (19 of 1883), or the Agriculturists Loans Act 1884 (12 of 1884), granted after the execution of the mortgage.

79. Right of land mortgage bank or of the State Land Mortgage Bank to purchase mortgaged property.—(1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for a land mortgage bank or the State Land Mortgage Bank to purchase any mortgaged property sold under this Chapter, and the property so purchased shall be disposed of by such bank by sale within such period as may be fixed by the Trustee.

(2) Nothing in fixing a maximum limit of agricultural holding shall apply to the acquisition of land by a land mortgage bank or the State Land Mortgage Bank under sub-section (1).

80. Mortgages executed in favour of land mortgage bank to stand vested in State Land Mortgage Bank.—The mortgages executed in favour of, and all other assets transferred to a land mortgage bank by the members thereof shall, with effect from the date of such execution or transfer, be deemed to have been transferred by such land mortgage bank to the State Land Mortgage Bank and shall vest in the Trustee.

81. Power of land mortgage bank to receive moneys and grant discharges.—Notwithstanding that a mortgage executed in favour of a land mortgage bank has been transferred, or is deemed under the provisions of section 80 to have been transferred, to the State Land Mortgage Bank,—

- (a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the mortgagor, be payable to the land mortgage bank and such payment shall be as valid as if the mortgage had not been so transferred; and
- (b) the land mortgage bank shall, in the absence of any specific direction to the contrary issued by the Board or Trustee and communicated to the land mortgage bank, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

82. Right of land mortgage bank to pay prior debts of mortgagor.—(1) Where a mortgage is executed in favour of a land mortgage bank for payment of prior debts of the mortgagor, the bank may, notwithstanding the provisions of sections 75 and 76 of the Transfer of Property Act 1882 (4 of 1882), by notice in writing, require any person to whom any such debt is due, to receive payment of such debt or part thereof from the bank at its registered office within such period as may be specified in the notice.

(2) Where any such person fails to receive such notice or such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiration of the period specified in the notice:

Provided that where there is a dispute as regards the amount of any such debt the person to whom such debt is due shall be bound to receive payment of the amount offered by the land mortgage bank towards the debt, but such receipt shall not prejudice the right, if any, of such person, to recover the balance claimed by him.

83. Distraint—when to be made.—(1) If any instalment payable under a mortgage executed in favour of a land mortgage bank or any part of such instalment has remained unpaid for more than one month from the date on which it fell due, the Committee may, in addition to any other remedy available to the bank, apply to the Registrar for the recovery of such instalment or part thereof by distraint and sale of the produce of the mortgaged land including the standing crops thereon.

(2) On receipt of such application the Registrar or such person may, notwithstanding anything contained in the Transfer of Property Act 1882 (4 of 1882), take action in the manner prescribed for the purpose of distraining and selling such produce:

Provided that no distraint shall be made after the expiry of twelve months from the date on which the instalment fell due.

(3) The value of the property distrained shall be, as nearly as possible, equal to the amount due and the expenses of the distraint and the costs of the sale.

84. Power of sale—when to be exercised.—(1) Notwithstanding anything contained in the Transfer of Property Act 1882 (4 of 1882) where a power of sale without the intervention of the court is expressly conferred on the land mortgage bank by the mortgage deed, the Committee of such bank or any person authorised by such Committee in this behalf shall, in case of default of payment of the mortgage money or any part thereof, have power, in addition to any other remedy available to the bank, to bring the mortgaged property to sale without the intervention of the court.

(2) No such power shall be exercised unless and until,—

- (a) the Board has previously authorized the exercise of the power conferred by sub-section (1), after hearing the objections, if any, of the mortgagor;
- (b) notice in writing requiring payment of such mortgage money or part has been served upon—
 - (i) the mortgagor;
 - (ii) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the same;
 - (iii) any surety for the payment of the mortgage debt or any part thereof; and
 - (iv) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property;
- (c) default has been made in payment of such mortgage money or part thereof for three months after such service.

85. Powers of land mortgage bank where mortgaged property is destroyed or security becomes insufficient.—Where any property mortgaged to a land mortgage bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, having been given a reasonable opportunity by the Committee of the land mortgage bank, of providing further security enough to render the whole security sufficient or of repaying such portion of the loan as may be determined by the Committee, has failed to provide such

security or to repay such portion of the loan, the whole of the loan shall be deemed to fall due at once and the Committee shall be entitled to take action against the mortgagor under section 83 or section 84 for the recovery thereof.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds the amount for the time being due on the mortgage by such proportion as may be specified in the by-laws of the land mortgage bank.

86. Power of Board or of Trustee to distrain and sell property etc.—(1) The Board or the Trustee may direct the committee of a land mortgage bank to take action against a defaulter under section 83, section 84 or section 85 and if the Committee neglects or fails to do so, the Board or the Trustee may take such action.

(2) (a) Where such action is taken by the Board, the provisions of this Chapter and of any rules made in this behalf shall apply in respect thereto as if all references to the land mortgage bank and to its Committee in the said provisions were references to the State Land Mortgage Bank and the Board, respectively.

(b) Where such action is taken by the Trustee, the provisions of this Act and of any rules made thereunder shall apply in respect thereto as if all references to the mortgage bank or to its Committee in the said provisions were references to the Trustee.

87. Title of purchaser not to be questioned on the ground of irregularity, etc.—Where any property is sold in the exercise or purported exercise of a power of sale under section 83, the title of the purchaser shall not be questioned on the ground that,—

- (a) the circumstances required for authorising the sale had not arisen, or
- (b) due notice of the sale was not given, or
- (c) the power of sale was otherwise improperly or irregularly exercised;

but any person who has suffered any damage by an unauthorised, improper or irregular exercise of any such power shall have a remedy in damages against the land mortgage bank.

88. Mortgage not to be questioned on insolvency of mortgagor.—Notwithstanding anything contained in any law relating to insolvency, a mortgage executed in favour of a land mortgage bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration or on the ground that it was executed in order to give the land mortgage bank a preference over the other creditors of the mortgagor.

89. Appointment of receiver and his powers.—(1) The Board may, on the application of a land mortgage bank and under circumstances in which the power of sale conferred by section 84 may be exercised, appoint in writing a receiver of the produce and income of the mortgaged property or any part thereof and such receiver shall be entitled either to take possession of the property or collect its produce and income, as the case may be, to retain out of any

money realised by him, his expenses of management including his remuneration, if any, as fixed by the Board, and to apply the balance in accordance with the provisions of sub-section (8) of Section 69-A of the Transfer of Property Act 1882.

(2) A receiver appointed under sub-section (1) may for sufficient cause and on application made by the mortgagor, be removed by the Board.

(3) A vacancy in the office of the receiver may be filled up by the Board.

(4) Nothing in this section shall empower the Board to appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a civil court.

90. Mortgagors' powers to lease.—(1) Notwithstanding anything contained in the Transfer of Property Act, 1882, or any other law for the time being in force, a mortgagor shall not grant a lease of the mortgaged property for a period exceeding five years.

(2) Any lease granted in contravention of the provisions of sub-section (1) shall be void.

91. Registration of documents executed on behalf of a land mortgage bank or of the State Land Mortgage Bank.—(1) Notwithstanding anything contained in the Indian Registration Act 1908) (16 of 1908) it shall not be necessary for any officer of a land mortgage bank or of the State Land Mortgage Bank to appear in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration, may, if he thinks fit refer to such officer for information respecting the same, and on being satisfied of the execution thereof, shall register the instrument.

92. Delegation of certain powers by Board.—The Board may, if it thinks fit, delegate all or any of its powers under sections 84, 86 and 89 to an executive committee constituted by it and consisting of two or more of its members.

93. Sections 102, 103 and 104 of the Transfer of Property Act, 1882, to apply to notices under this Chapter.—The provisions of sections 102 and 103 of the Transfer of Property Act, 1882 (4 of 1882) and of any rules made by the High Court under section 104 of that Act for carrying out the purposes of the said sections, shall apply, so far as may be, in respect of all notices to be served under this Chapter.

94. Power of the Board to make regulations.—(1) The Board may, subject to the approval of the Trustee, make regulations not inconsistent with the provisions of this Chapter—

- (a) for fixing the period of debentures and the rate of interest payable thereon;
- (b) for calling in debentures after giving notice to debenture holders;

- (c) for the issue of new debentures in place of debentures damaged or destroyed;
- (d) for converting one class of debentures into another bearing a different rate of interest;
- (e) for the inspection of the account books and proceedings of land mortgage banks;
- (f) for the submission of returns and reports by land mortgage banks in respect of their transactions;
- (g) for the periodical settlement of accounts between land mortgage banks and for the payment of the amounts recovered by land mortgage banks on mortgages transferred or deemed under the provisions of section 80 to have been transferred to the State Land Mortgage Bank;
- (h) for specifying the form in which applications to land mortgage banks for loans should be made and for the valuation of the properties offered as security for such loans;
- (i) for the investment of moneys realized from mortgagors; and
- (j) generally for the purpose of carrying out the provisions of this Chapter.

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

95. Enforcement of charge.—Notwithstanding anything contained in Chapter IX, or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in his behalf, may, on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property or any interest therein, which is subject to a charge under sub-section (1) of section 31 :

Provided that no order shall be made under this section, unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice of the application and has failed to pay the debt or outstanding demand within seven days from the date of such service.

96. Execution of orders, etc.—Every order made by the Registrar under sub-section (2) of section 64 or under section 95, every decision or award made under section 66, every order made by the liquidator under section 69 and every order made by the Tribunal under section 101, 103, 104 or 105 and every order made under section 102, shall if not carried out,—

- (a) on a certificate signed by the Registrar, or any person authorised by him in this behalf, be deemed to be a decree of a civil court and shall be executed in the same manner as a decree of such court; or
- (b) be executed according to the law and under the rules for the time being in force for the recovery of arrears of land revenue :

Provided that any application for the recovery in such manner of any sum shall be made,

- (i) to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person authorised by him in this behalf;
- (ii) within twelve years from the date fixed in the order, decision or award and if no such date is fixed, from the date of the order, decision or award; as the case may be; or
- (c) be executed by the Registrar or any other person subordinate to him empowered by the Registrar in this behalf, by the attachment and sale or sale without attachment of any property of the person or a co-operative society against whom the order, decision or award has been obtained or passed.

97. Registrar or person empowered by him to be a civil court for certain purposes.—The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when

passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be civil court for the purposes of Article 182 of the First Schedule to the Indian Limitation Act 1908 (9 of 1908).

98. **Attachment of property before award or order.**—If the Registrar is satisfied on an application, report, inquiry or otherwise, that any person with intent to delay or obstruct the enforcement of any order, decision or award that may be made against him under the provisions of this Act,—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the arbitrator or liquidator, as the case may be,

he may, unless adequate security is furnished, direct the attachment of the said property; and such attachment shall have the same effect as if made by a competent civil court.

99. **Recovery of sums due to Government.**—(1) All sums due from a co-operative society or from an officer or member or past member of a co-operative society as such to Government, including any costs awarded to Government under any provision of this Act, may, on a certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of land revenues.

(2) Sums due from a society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability; and, thirdly, in the case of other societies, from the members, past members or the estates of deceased members:

* Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 24.

APPEALS, REVISION AND REVIEW

100. Co-operative Tribunal.—(1) The State Government shall constitute a Tribunal to be called the Co-operative Tribunal, to exercise the functions conferred on the Tribunal under this Chapter.

(2) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

(3) Where the Tribunal consists of three members, any two members shall form the quorum for the disposal of its business.

(4) Any vacancy in the membership of the Tribunal shall be filled by the State Government.

(5) Subject to the previous sanction of the State Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(6) All regulations, made by the Tribunal, shall be published in the official gazette and shall come into force from the date of such publication.

101. Appeals to the Tribunal.—Any person aggrieved by,—

(a) any decision of the Registrar made under clause (a) of sub-section (1) of section 66; or

(b) any decision of the person invested by the State Government with powers in that behalf under clause (b) of sub-section (1) of section 66; or

(c) any award of an arbitrator under clause (c) of sub-section (1) of section 66; or

(d) any order made under section 98 with a view to preventing any delay or obstruction in the execution of any decision or award that may be made under section 66;

may within two months from the date of the decision, award or order, as the case may be, appeal to the Tribunal.

102. Appeals to other authorities.—(1) An appeal shall lie under this section against,—

(a) an order of the Registrar made under sub-section (2) of section 7 refusing to register a co-operative society;

(b) an order of the Registrar made under sub-section (4) of section 12 refusing to register an amendment of the bye-laws of a co-operative society;

(c) a decision of a co-operative society refusing to admit any person as a member of the society or expelling any member of the society;

(d) an order of the Registrar removing the committee of a co-operative society made under section 29;

(e) an order made by the Registrar under section 63 apportioning the costs of an inquiry held under section 61 or an inspection made under section 62;

- (f) an order of surcharge made by the Registrar under section 64;
 - (g) an order made by the Registrar under section 67 directing the winding up of a co-operative society;
 - (h) any order made by the liquidator of a co-operative society in exercise of the powers conferred on him by section 69;
 - (i) an order made by the Registrar under section 96; or
 - (j) an order for attachment of any property made by the Registrar under section 98.
- (2) An appeal against any decision or order under sub-section (1) shall be made within sixty days from the date of the decision or order,—
- (a) if the decision or order was made by the Registrar, to the State Government; or
 - (b) if the decision or order was made by any other person, or a co-operative society to the Registrar;
- (3) No appeal shall lie under this section from any decision or order made by the Registrar in appeal.

Explanation.—For the purposes of this section, Registrar shall not include any person exercising all or any of the powers of the Registrar.

103. Revision by Tribunal.—The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or revised, the Tribunal may pass such order thereon as it may deem fit.

104. Review of orders by Tribunal.—(1) The Tribunal may, either on the application of the Registrar or on the application of any party interested, review its own order in any case and pass in reference thereto such order as it thinks fit:

Provided that no such application shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason:

Provided further that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.

(2) An application for review under sub-section (1) by any party shall be made within ninety days from the date of the communication of the order of the Tribunal.

105. Interlocutory orders by Tribunal.—Where an appeal is made to the Tribunal under section 101 or where the Tribunal calls for the record of a case under section 103 it may, in order to prevent the ends of justice being defeated, make such interlocutory orders pending the decision of the appeal or revision as it may deem fit.

OFFENCES AND PENALTIES

106. **Offences.**—(1) Any person other than a co-operative society carrying on business under any name or title of which the word “co-operative” or its equivalent in any Indian language, is part, without the sanction of the State Government shall be punishable with a fine which may extend to two hundred rupees.

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a co-operative society who contravenes the provisions of section 32 by disposing of any property in respect of which the society is entitled to have a first charge under that section or do any other act to the prejudice of such claim, shall be punishable with fine which may extend to two hundred rupees.

(3) A co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons requisition or lawful written order issued under the provisions of this Act or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees.

(4) Any employer, who, without sufficient cause, fails to pay to a co-operative society the amount deducted by him under subsection (2) of section 32 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any law for the time being in force, be punishable with fine which may extend to five thousand rupees.

107. **Cognizance of offences.**—(1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given without giving to the person concerned an opportunity to represent his case.

MISCELLANEOUS

108. Prohibition against the use of the word "co-operative".—No person other than a co-operative society shall trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language is part:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act 1912 (2 of 1912), came into operation

109. Address of a co-operative society.—Every co-operative society shall have an address registered in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of any change thereof within thirty days of the change.

110. Copy of Act, rules and bye-laws to open to inspection.—Every co-operative society shall keep a copy of this Act, the rules and its bye-laws open to inspection free of charge at all reasonable times at the registered address of the society.

111. Powers of civil court.—(1) In exercising the function conferred on it by or under this Act, the Tribunal, the Registrar the arbitrator or any other person deciding a dispute and the liquidator of a co-operative society shall have all the powers of a civil court, while trying a suit, under the code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) proof of facts by affidavits; and
- (d) issuing commissions for examination of witness.

(2) In the case of any affidavit, any officer appointed by the Tribunal, Registrar, the arbitrator or any other person deciding a dispute or the liquidator, as the case may be, in this behalf may administer the oath to the deponent.

112. Bar of jurisdiction of courts.—(1) Save as provided in this Act, no civil or revenue court shall have any jurisdiction in respect of,—

- (a) the registration of a co-operative society or bye-laws or of an amendment of a bye-law;
- (b) the removal of a Committee;
- (c) any dispute required under section 65 to be referred to the Registrar;
- (d) any matter concerning the winding up and the dissolution of a co-operative society.

(2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with, or instituted against, the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court on any ground whatsoever.

113. Power to exempt societies from conditions of registration.—Notwithstanding anything contained in this Act, the State Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any co-operative society from any of the requirements of this Act as to registration.

114. Power to exempt class of societies.—The State Government may, by general or special order exempt any co-operative society or any class of societies from any of the provisions of this Act or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order.

115. Register of members.—Any register or list of members or sares kept by any co-operative society shall be *prima facie* evidence of any of the following entered therein,

- (a) the date on which the name of any person was entered in such register or list as a member;
- (b) the date on which any such person ceased to be a member.

116. Proof of entries in co-operative society's books.—(1) A copy of any entry in a book of a co-operative society regularly kept in the course of its business, shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence, of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in the same manner and to the same extent as the original entry itself is admissible.

(2) A co-operative society may grant copies of any document obtained and kept by it in the course of its business, or of any entries in such document; and any copy so granted shall, when certified in such manner as may be prescribed, be admissible in evidence for any purpose in the same manner and to the same extent as the original document, or the entries therein, as the case may be.

(3) No officer of a co-operative society and no officer in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the court, Tribunal or the arbitrator made for special cause.

117. Service of notice under the Act.—Every notice or order issued or made under this Act may be served on any person, by properly addressing it to the last known place of residence or business

of such person prepaying and posting by registered post a letter containing the notice or order and unless the contrary is proved, such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course.

118. Notice necessary in suits.—No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the constitutions, management or the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

119. Acts of co-operative societies not to be invalidated by certain defects.—No act of a co-operative society or any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in the constitution of the society or the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment.

120. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority in respect of anything in good faith done or purporting to have been done under this Act.

121. Companies Act, 1956 not to apply.—The provisions of the Companies Act 1956 (1 of 1956), shall not apply to co-operative societies.

122. Savings of existing societies.—(1) Any co-operative society now existing which has been registered under the Co-operative Credit Societies Act 1904 (10 of 1904), or under the Co-operative Societies Act 1912 (2 of 1912), or under any other law relating to Co-operative Societies in force in the State of..... shall be deemed to be registered under this Act, and its bye-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded.

(2) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under any of the said Acts or law shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

123. Powers to make rules.—(1) The State Government may, for the whole or any part of the State and for any class of co-operative societies, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the applicant to whom the order refusing the registration of a co-operative society may be sent by the Registrar;
- (b) the procedure and conditions for change in the form and extent of the liability of a co-operative society;

- (c) the matters in respect of which a co-operative society shall or may make bye-laws;
- (d) the procedure to be followed for amendment of bye-laws by a co-operative society;
- (e) the qualifications or disqualifications of individuals who may be admitted as members of co-operative societies;
- (f) the provision for a second or casting vote by the chairman of a meeting of a co-operative society;
- (g) the appointment by a co-operative society of one of its members to represent and vote on its behalf at a meeting of another co-operative society of which it is a member;
- (h) the maximum number of shares or portion of the share capital of a co-operative society which may be held by an individual member;
- (i) the procedure for the nomination of a person to whom the share or interest of a member on his death may be transferred or the value thereof may be paid;
- (j) the mode in which the value of a deceased member's share shall be ascertained;
- (k) the election of members of Committee by the general body of a co-operative society;
- (l) the requisitioning of a general meeting of a co-operative society;
- (m) the remuneration payable to a new Committee or Administrators appointed in place of a Committee removed by the Registrar;
- (n) the qualifications or disqualifications for membership of Committee of a co-operative society;
- (o) the qualifications of employees of co-operative societies;
- (p) the prohibition against officers of a co-operative society being interested in contracts with the society;
- (q) the matters connected with the direct and indirect partnership of the State Government in co-operative societies;
- (r) the rate at which dividend may be paid by co-operative societies;
- (s) the payment to be made to the "Co-operative Education Fund" by a co-operative society out of its net profits and the mode of its investment;
- (t) the mode of investment of funds of a co-operative society;
- (u) the objects of the reserve fund of a co-operative society; and mode of its investment;
- (v) the mode of disposal of reserve fund of a co-operative society on its winding up;
- (w) the extent and conditions subject to which a co-operative society may receive deposits and loans;
- (x) the restrictions on transactions by a co-operative society with non-members;
- (y) the restrictions on grant of loans by a co-operative society against its shares;

- (z) the form and standards of fluid resources to be maintained by co-operative societies accepting deposits and granting cash credits;
- (aa) the levy of audit fees on co-operative societies;
- (bb) the procedure to be followed in proceedings before the Registrar, arbitrator or other person deciding disputes;
- (cc) the conditions subject to which assets of a co-operative society shall vest in a liquidator and the procedure to be adopted in winding up of a co-operative society;
- (dd) the procedure for recovery of amounts due or payable to a co-operative society;
- (ee) the mode of making attachment before judgment;
- (ff) the procedure for the distraint and sale of property, mortgaged to a land mortgage bank;
- (gg) the qualifications of members of the Tribunal;
- (hh) the manner of registering the address of a co-operative society;
- (ii) the account books and registers to be kept by a co-operative society and power of Registrar to direct the accounts and books to be written up;
- (jj) the manner of certification of entries in the books of a co-operative society and of copies of documents kept by it in the course of its business;
- (kk) the statements and returns to be furnished by a co-operative societies to the Registrar;
- (ll) the restrictions on persons appearing as legal practitioners;
- (mm) the inspection of documents and the levy of fees for granting certified copies thereof; and
- (nn) the matters expressly required or allowed by the Act to be prescribed.

124. **Repeal.**—The..... Co-operative Societies Act, 19..... is hereby repealed.

MODEL RULES UNDER
THE CO-OPERATIVE SOCIETIES ACT

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CO-OPERATIVE SOCIETIES RULES

In exercise of the powers conferred by section 123 of theCo-operative Societies Act 1957, the State Government hereby makes the following rules.

CHAPTER I

PRELIMINARY

1. **Short title.**—These rules may be called the.....Co-operative Societies Rules, 1957.

2. **Definitions.**—In these Rules, unless the context otherwise requires:—

- (a) 'the Act' means theCo-operative Societies Act, 1957;
- (b) 'co-operative year' means the year ending with the 30th day of June or in the case of any co-operative society or class of co-operative societies the accounts of which are made up to any other date, with the previous sanction of the Registrar, the year ending with such date;
- (c) 'decree' means any order, decision or award referred to in section 96 of the Act;
- (d) 'decree holder' means any person holding a decree as defined in clause (c);
- (e) 'defaulter' means any co-operative society against which or any person against whom, a decree as defined in clause (c) has been obtained;
- (f) 'person' includes the State Government and a co-operative society;
- (g) 'Recovery Officer' means a person subordinate to the Registrar who is empowered to exercise in a district, the powers of the Registrar under section 96 of the Act;
- (h) 'Sale officer' means an officer empowered by the Registrar, by general or special order, to attach and sell the property of defaulters or to execute any decree by attachment and sale of property.

REGISTRATION OF CO-OPERATIVE SOCIETIES AND THEIR BYE-LAWS

3. Communication of order of refusal to register a society.—(1) An application for the registration of a co-operative society shall mention the name and address of one of the applicants to whom correspondence may be addressed by the Registrar.

(2) If the Registrar refuses to register a co-operative society, he shall communicate the order of refusal by registered post to the applicant referred to in sub-rule (1).

4. Change of form and extent of liability.—(1) A change in the form and extent of liability of a co-operative society shall be effected by a resolution passed at a general meeting of the society.

(2) At least fifteen days' clear notice of such meeting shall be given to all the members of the co-operative society, which shall be accompanied by a copy of the proposed resolution.

5. Subject matter of bye-laws.—(1) The bye-laws of a co-operative society shall provide for the following matters, namely—

- (a) the name and address of the society;
- (b) the area of its operations;
- (c) the objects of the society;
- (d) the manner in which funds may be raised and the maximum share capital which a single member may hold;
- (e) the nature and extent of the liability of the members;
- (f) the extent to which the society may borrow funds and the rates of interest payable on such funds;
- (g) the entrance and other fees to be collected from members;
- (h) the purposes for which its funds may be applied;
- (i) the terms and conditions of admission of members and their rights and liabilities;
- (j) in the case of credit societies:
 - (i) the maximum loan admissible to a member,
 - (ii) the maximum rates of interest on loans to members,
 - (iii) the conditions on which loans may be granted to members,
 - (iv) the procedure for granting extension of time for the repayment of loans and advances,
 - (v) the consequences of default in payment of any sum due, and
 - (vi) the circumstances under which a loan may be recalled.
- (k) in the case of non-credit societies, the mode of conducting business, purchase, sale, stock taking and other allied matters;
- (l) the mode of holding meetings and of issue of notices;

- (m) the mode of appointment and removal of the Committee and other officers, the duties and powers of the Committee and such officers and their term;
- (n) the disposal of net profits;
- (o) the preparation and submission of the annual statements specified by the Registrar and the publication of the same; and
- (p) the constitution of an "Agricultural Credit Stabilisation Fund" in case of every co-operative society which facilitates the operations of affiliated agricultural co-operative credit societies and which has received financial assistance from the State Government.

(2) A society may make bye-laws for the following matters, namely—

- (a) the circumstances under which withdrawal from membership may be permitted;
- (b) the procedure to be followed in cases of withdrawal, ineligibility and death of members;
- (c) the conditions, if any, under which the transfer of share or interest of a member may be permitted;
- (d) the method of appropriating payments made by members from whom moneys are due;
- (e) the method of recruitment, the conditions of service and the authority competent to fix, revise or regulate the scales of pay and allowances of paid officers and employees of the society and the procedure to be followed in the disposal of disciplinary cases against them;
- (f) the authorisation of an officer or officers to sign documents and to institute and defend suits and other legal proceedings on behalf of the society.

(3) The bye-laws of a co-operative society may provide for such matters not specified in sub-rule (1) and sub-rule (2) as are incidental to the organisation of the society and the management of its business.

6. Procedure regarding amendment of bye-laws.—(1) Where a co-operative society proposes to amend its bye-laws, no such amendment shall be made save by a resolution passed by a two-thirds majority of the members present and voting, at a general meeting of the society.

(2) No such resolution shall be valid, unless notice of the proposed amendment has been given to the members of the society in accordance with the bye-laws.

(3) In every case in which a society proposes to amend its bye-laws, an application shall be made to the Registrar together with,—

- (a) a copy of the resolution referred to in sub-rule (1) and

(b) a certificate signed by the presiding authority of the meeting that the procedure specified in sub-rule (1) and sub-rule (2) and in the bye-laws has been followed.

(4) Every such application shall be made within fourteen days from the date of the general meeting at which such amendment was passed :

Provided that the Registrar may condone the delay, if any, for sufficient cause.

(5) When the Registrar registers an amendment of the bye-laws of a co-operative society, he shall send a copy thereof to the society if any, to which the co-operative society is affiliated.

MEMBERS OF CO-OPERATIVE SOCIETIES: THEIR RIGHTS AND LIABILITIES

7. Disqualifications for membership.—(1) No person shall be eligible for admission as a member of a co-operative society, if he—

- (a) has applied to be adjudicated an insolvent or is an undischarged insolvent; or
- (b) has been sentenced for any offence, other than an offence of a political character or an offence not involving moral turpitude, and a period of five years has not elapsed from date of expiry of the sentence.

(2) If a member becomes subject to any of the disqualifications specified in sub-rule (1), he shall be deemed to have ceased to be a member from the date when the disqualification was incurred.

8. Prohibition of membership in two credit societies.—No individual, being a member of a primary co-operative credit society, shall be a member of any other such society without the general or special sanction of the Registrar, and where an individual has become a member of two such credit societies, either or both of the societies shall be bound to remove him from membership upon a written requisition from the Registrar to that effect.

9. Admission of members before the general meeting of a society.—No co-operative society shall admit members within fourteen days prior to the date of its annual general meeting.

10. Chairman to have second or casting vote.—In the event of an equality of votes the chairman of a meeting of a co-operative society shall have a second or casting vote.

11. Disabilities of a defaulting member.—(1) No member of a co-operative society, who is in arrears to the society in respect of any loan taken by him, for such period as is specified in its bye-laws, or in any case for a period exceeding three months, shall be appointed to represent the society in any other co-operative society and to vote on its behalf in such other co-operative society.

(2) Where a member of a co-operative society so appointed falls in arrears to the society for the period specified in sub-rule (1), subsequent to his appointment, he shall cease to be a representative of the society as from the end of the said period.

12. Nomination of an heir.—(1) A member of a co-operative society may nominate a person or persons to whom, in the event of his death, his share or interest in the capital of the society shall be transferred or the value thereof or any other moneys due to him from the society shall be paid. Such member may, from time to time revoke or vary such nomination.

(2) The number of persons who may be nominated by a member shall not exceed the number of shares held by the member.

(3) When a member nominates more than one person in respect of any shares held by him, he shall, as far as practicable, specify the amount to be paid or transferred to each nominee in terms of a whole share.

(4) A nomination made by a member under this rule shall not be valid and shall not, in the event of the death of the member, have effect, unless,—

- (a) it is made in writing and is signed by the member in the presence of at least two witnesses; and
- (b) it is registered in the books of the society kept for the purpose.

13. Value of share of a member.—(1) If a member resigns his membership of a co-operative society or is removed under rule 8, or dies or otherwise ceases to be a member, the sum representing the value of his share or interest in the capital of the society to be paid to him or his nominee, heir or legal representative, as the case may be, shall be ascertained in the manner following:—

- (i) in the case of a society with unlimited liability, it shall be the actual amount received by the society in respect of such share or interest;
- (ii) in the case of a society with limited liability, it shall be the amount arrived at by a valuation based on the financial position of the society as shown in the last audited balance sheet preceding the resignation, removal or death, as the case may be; provided that the amount so ascertained shall not exceed the actual amount received by the society in respect of such share or interest.

(2) In case of a dispute between a member or his nominee, heir or legal representative and the society regarding the value of the share or interest in the share capital, the decision of the Registrar thereon shall be final.

CHAPTER IV

MANAGEMENT OF SOCIETIES

14. Election of members of Committee by general body.—(1) A co-operative society may, for the purpose of election of members to its Committee divide its membership into different groups on a territorial or any other basis.

(2) The bye-laws of such a society may specify the number or proportion of the members of the Committee who may be elected to represent each such group on the Committee and may specify further that such representatives may be elected,—

- (a) by all the members of the society; or
- (b) by only that particular group of members of the society to which such representatives belong.

15. Remuneration payable to new Committee or Administrator.—

(1) The remuneration payable to a Committee or Administrators appointed under section 30 shall be such as the Registrar may, from time to time, determine.

(2) The amount of such remuneration and the other costs, if any, incurred in relation to the management of the co-operative society by the Committee or the Administrators shall be payable from the funds of the society.

16. Disqualification for membership of Committee.—(1) No person shall be eligible for appointment as a member of the Committee of a co-operative society, if,

- (a) he is in default to the society in respect of any loan taken by him, for such period as is specified in the bye-laws of the society, or in any case for a period exceeding three months, or
- (b) he has, directly or indirectly, any interest in any subsisting contract made with the society or in any property sold or purchased by the society or in any other transaction of the society, except in any investment made in, or any loan taken from, the society.

(2) A member of the Committee of a co-operative society shall cease to hold his office as such, if he incurs any of the disqualifications mentioned in sub-rule (1).

17. Officers and employees of co-operative societies.—(1) No co-operative society shall appoint any person as its paid officer or employee in any category of service, unless he possesses the qualifications and furnishes the security as specified by the Registrar from time to time, for such category of service in the society, or for the class of societies to which it belongs.

(2) No co-operative society shall retain in service any paid officer or employee, if he does not acquire the qualifications or furnish the security as is referred to in sub-rule (1) within such time as the Registrar may direct.

(3) The Registrar may for special reasons, relax in respect of any paid officer or employee, the provisions of this rule in regard to the disqualifications he should possess or the security he should furnish.

18. Prohibition against being interested in contracts etc.—(1) No officer of a co-operative society shall have an interest, directly or indirectly otherwise than as such officer,—

- (a) in any contract made with the society; or
- (b) in any property sold or purchased by the society; or
- (c) in any other transaction of the society except as investment made or as loan taken from the society or the provision of residential accommodation by the society to any paid employee of the society.

(2) No officer of a co-operative society shall purchase, directly or indirectly, any property of a member of the society sold for the recovery of his dues to the society.

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

19. **Co-operative Education Fund.**—Every co-operative society shall contribute such amount not exceeding five per cent, as may be directed by the Registrar from time to time, out of its net profits of the year to the 'Co-operative Education Fund' to be administered by the State Co-operative Union, or if there is no such union, by a committee appointed by the Registrar. The contributions payable by a society shall be a charge on funds of the society and shall be recoverable in the manner provided in section 96. The State Co-operative Union or the committee shall prepare regulations with the approval of the Registrar for the utilisation and administration of the Fund and such regulations shall, among other things provide for contributions to the All-India Co-operative Union.

20. **Disposal of unappropriated profits.**—Any profits not appropriated in the manner specified in the Act, the rules and the bye-laws shall forthwith be credited by a co-operative society to its reserve fund.

21. **Investment of funds.**—(1) A co-operative society may, with the previous sanction of the Registrar, invest the whole or any portion of its funds in the purchase or lease of land or in the acquisition, construction or renewal of any building that may be necessary to conduct its business. The amount of the funds so invested shall be recouped on such terms as may be determined in each case by the Registrar.

(2) The provision of sub-rule (1) shall not apply—

(a) to immovable property purchased—

(i) by a co-operative society at a sale held in execution of a decree obtained by it, for the recovery of any sum due to it; or

(ii) by a financing bank at a sale held in execution of a decree obtained by a co-operative society financed by it, for the recovery of any sum due to such society or at a sale brought about by the liquidator or such society; or

(c) to the purchase or lease of lands or purchase, construction or renewal of buildings by a co-operative society whose objects according to its bye-laws include such purchase, lease, construction or renewal.

(3) No recoupment of the amount invested under this rule shall be necessary where the investment is made—

(a) by a co-operative society from its building fund constituted out of profits; or

(b) by a co-operative society, other than a credit society, in which the share capital raised from the members is intended to build up the special kind of business for which it has been registered.

(4) Nothing in this rule shall apply to the investment of the reserve fund of a co-operative society and such investment shall be governed by rule 22.

22. Object and investment of reserve fund.—(1) A reserve fund maintained by a co-operative society shall belong to the society and is intended to meet unforeseen losses. It shall be indivisible and no member shall have any claim to a share in it.

(2) A co-operative society shall not invest or deposit its reserve fund except in one or more of the modes mentioned in clauses (a) to (d) of section 54 of the Act :

Provided that the Registrar may, by general or special order, permit any co-operative society or any class of co-operative societies to invest the reserve fund or a portion thereof in its own business.

(3) No co-operative society whose reserve fund has been separately invested or deposited shall draw upon, pledge or otherwise employ such fund, except with the sanction of the Registrar previously obtained in writing.

23. Disposal of reserve fund on winding up of a co-operative society.—(1) On the winding up of a co-operative society, the reserve fund together with other funds constituted by the society in accordance with its bye-laws, shall be applied by the liquidator to the discharge of such liabilities of the society as may remain undischarged out of the assets of the society, in the following order, namely :—

- (a) the debts of the society;
- (b) the paid-up share capital; and
- (c) the dividend upon paid up share capital at rates not exceeding six per cent for any period or periods for which dividend has not been paid; or such dividend upon paid up share capital as will bring the dividend to the maximum rate for any period for which the dividend at a rate lower than the maximum specified has been paid. No dividend shall, however, be paid on share capital if the bye-laws of the society do not provide for payment of dividend.

(2) Any surplus funds remaining after the payments mentioned in sub-rule (1) shall be utilised in the following manner and subject to the following conditions namely:—

- (a) in the case of a co-operative society, other than a financing bank,—

- (i) the surplus funds shall be applied to such object of public utility as may be selected by the general body of the dissolved society at a meeting and approved by the Registrar. It shall be competent for the liquidator to constitute a trust to carry out such object and to require the general body to select a trustee or trustees from among the ex-members or other persons. If the general body does not select a trustee or trustees or if the selection of a trustee or trustees by the general body is not acceptable to the liquidator, the liquidator may himself appoint a trustee or trustees. The trustee or trustees, as

the case may be, shall execute a deed in such form as the Registrar may from time to time specify. A trust created under this sub-clause shall be governed by the provisions of the law relating to public charitable trusts, for time being in force.

- (ii) if within thirty days after the issue of notice by the liquidator appointed to wind up the affairs of the society, the general body fails to make any selection that is approved by the Registrar, the Registrar may place the surplus funds on deposit or otherwise with a financing bank working in the area in which the society which is being wound up carried on its operations, until a new co-operative society with similar objects is registered in such area, in which case the funds shall be credited to the reserve fund of such society. If in the opinion of the Registrar, there is no prospect of a new society being formed in such area within a reasonable time, the Registrar shall assign the amount to the bad debt reserve or the reserve fund of the financing bank working in such area
- (b) in the case of a financing bank, the surplus funds shall be assigned by the Registrar to the reserve fund or funds of any other financing bank or banks to which the societies working in the area in which the financing bank which is being wound up carried on its operations, are affiliated. If there is no financing bank working in such area, the Registrar shall invest the amount in the State co-operative bank, until a new financing bank is formed in such area, in which case the funds shall be credited to the reserve fund of such financing bank.

24. Restrictions on borrowings by co-operative societies.—(1) Subject to the provisions of sub-rule (2), a co-operative society shall not receive deposits and loans, whether from members or non-members, which exceed the limit fixed, from time to time, by the Registrar in this behalf, for that society or for the class of societies to which it belongs.

(2) A co-operative society which accepts deposits and loans from members only and has no liability to any person other than the members, may receive such deposits and loans in excess of the limit referred to in sub-rule (1), if the excess amount is deposited in a co-operative bank to which it is affiliated or is invested in Government or other securities specified in section 20 of the Indian Trusts Act, 1882:

Provided that the amount so deposited or invested, or any part thereof, is not withdrawn or otherwise utilised except for the repayment of the deposits accepted in excess of the aforesaid limit.

25. Transactions with non-members.—No co-operative society shall enter into any transaction with a person other than a member except those referred to in sections 55 and 56, unless—

- (a) the bye-laws of the society permit it to enter into such transactions, and
- (b) previous sanction of the Registrar has been obtained by the society.

26. **Restrictions on grant of loans by a co-operative society against its own shares.**—No co-operative society shall grant loans or make advances against the security of its own shares.

27. **Maintenance of fluid resources.**—Every co-operative society accepting deposits and granting cash credits shall maintain fluid resources in such form and according to such standards as may be fixed by the Registrar, from time to time, by general or special order.

CHAPTER VI

AUDIT

28. Audit fees.—(1) Every co-operative society shall pay to the State Government a fee for the audit of its accounts for each co-operative year in accordance with the scale fixed by the Registrar, with the previous approval of the State Government, in respect of the class of societies to which it belongs.

(2) All fees payable under this rule shall be recoverable in the manner specified in section 99 of the Act.

(3) The Registrar may, subject to such conditions as may be laid down by the State Government, remit the whole or any part of the fees payable under sub-rule (1) by a particular society or by a particular class of societies for any year or other specified period.

SETTLEMENT OF DISPUTES

29. **Procedure for arbitration.**—(1) A reference to the Registrar of any dispute under section 65 of the Act shall be in writing.

(2) The period of limitation for referring a dispute touching the constitution, management or the business of a co-operative society to the Registrar under sub-section (1) of section 65 of the Act shall be regulated by the provisions of the Indian Limitation Act, 1908 (IX of 1908) as if the dispute were a suit and the Registrar a civil court:

Provided that a dispute between (i) the society or its committee and (ii) any past committee, any past officers, past agent or past employee, or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society, shall where the dispute relates to any act or omission on the part of the society or its committee, or any past committee, any past officer, past agent or past employee, or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society, be referred to the Registrar within two years from the date on which the act or omission with reference to which the dispute arose, took place:

Provided further that a dispute relating to the election of a member or an officer of the Committee of a co-operative society shall be referred to the Registrar within two months from the date of declaration of the result of the election with reference to which the dispute arose.

(3) Where on receipt of a reference under sub-rule (1), the Registrar decides under clause (c) of sub-section (2) of section 66 of the Act, to refer it for disposal by arbitration, the reference shall be made to one arbitrator appointed by the Registrar.

(4) The Registrar, the arbitrator or other person deciding the dispute shall record a brief note of the evidence of the parties and witnesses who attend, and upon the evidence so recorded, and after consideration of any documentary evidence produced by the parties, a decision or award, as the case may be, shall be given in accordance with justice, equity and good conscience by such Registrar, arbitrator or other person. The decision or award given shall be reduced to writing. In the absence of any party duly summoned to attend, the dispute may be decided *ex parte*.

(5) (a) The Registrar shall have power to require the person referring a dispute under sub-section (1) of section 65 of the Act, to deposit in advance the fee specified by the Registrar for deciding the dispute.

(b) The Registrar, arbitrator or other person deciding a dispute under sub-section (2) of section 66 of the Act shall have power to order the expenses incurred in determining such dispute to be paid either out of the funds of the society or by such party or parties to the dispute, as he may think fit.

(c) The Registrar may, in his discretion, remit the whole or any part of the fees collected under clause (a).

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES

30. Procedure to be adopted by liquidator.—Where a liquidator has been appointed under sub-section (1) of section 68 of the Act, the following procedure shall be adopted :—

- (a) The appointment of the liquidator shall be notified by the Registrar in the official gazette.
- (b) The liquidator shall, as soon as the order of winding up of the society takes effect, publish by such means as he may think proper a notice requiring all claims against the society the winding up of which has been ordered, to be submitted to him within two months of publication of the notice. All liabilities recorded in the account books of a society shall be deemed *ipso facto* to have been duly submitted to him under this clause.
- (c) The liquidator shall, after settling the assets and liabilities of the society as they stood on the date on which the order for winding up is made, proceed next to determine the contribution to be made by each of its members, past members, or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society under clauses (b) and (e) of sub-section (2) of section 69 of the Act. Should necessity arise, however, he may also make a subsidiary order regarding such contributions and such order shall be enforceable in the same manner as the original order.
- (d) The liquidator shall submit to the Registrar a quarterly report in such form as the Registrar may specify showing the progress made in the liquidation of the society.
- (e) The liquidator may empower any person, by general or special order in writing, to make collections and to grant valid receipts on his behalf.
- (f) All funds in the charge of the liquidator shall be deposited in the Government Treasury or in the Post Office Savings Bank or in a co-operative bank or with such other bank or person as may be approved by the Registrar and shall stand in his name.
- (g) The Registrar shall fix the amount of remuneration if any, to be paid to the liquidator. The remuneration shall be included in the cost of liquidation which shall be payable out of the assets of the society in priority to all other claims.
- (h) The liquidator shall have power to call for meetings of members of the society, under liquidation.
- (i) At the conclusion, of the liquidation, a general meeting of the society which has been wound up shall be called at which the liquidator or any person authorised by him by special or general order in writing in this behalf shall summarise

the result of his proceedings, and shall take a vote as to the disposal of any surplus funds in the manner prescribed in sub-rule (2) of rule 23.

- (j) if any liability cannot be discharged by the liquidator owing to the whereabouts of the claimants not being known or for any other cause, the amount covered by such undischarged liability may be deposited in a co-operative bank and shall be available for meeting the claims of the person or persons concerned.
- (k) A liquidator may, at any time, be removed by the Registrar and he shall on such removal be bound to hand over all the property and documents relating to the society under liquidation to such persons as the Registrar may direct.
- (l) The liquidator shall keep such books and accounts as may from time to time be required by the Registrar who may at any time cause such books and accounts to be audited.
- (m) All the books and records of a society whose registration has been cancelled, and the proceedings of liquidation, may be destroyed by the Registrar after the expiry of three years from the completion of the liquidation.

CHAPTER IX

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

31. *Procedure in execution of award etc.*—(1) Any decree-holder requiring the provisions of clause (e) of section 96, to be applied shall apply to the Recovery Officer within whose jurisdiction the defaulter resides or the property of the defaulter is situated.

(2) Every such application shall be made in the form specified by the Registrar and shall be signed by the decree-holder. The Decree-holder may indicate whether he wishes to proceed against the immovable property mortgaged to the decree holder or other immovable property or to secure the attachment of movable property.

(3) On receipt of such application, the Recovery Officer shall verify the correctness and genuineness of the particulars set forth in the application with the records, if any, in the office of the Registrar and prepare a demand notice in writing in duplicate in the form specified by the Registrar, setting forth the name of the defaulter and the amount due and forward it to a Sale Officer.

(4) Unless the decree-holder has expressed a desire that proceedings should be taken in a particular order as laid down in sub-rule (2), execution shall ordinarily be taken in the following manner:—

- (i) movable property of the defaulter shall be first proceeded against, but this shall not preclude the immovable property being proceeded against simultaneously in case of necessity.
- (ii) if there is no movable property, or if the sale proceeds of the movable property, or properties attached and sold are insufficient to meet in full the demand of the decree-holder, the immovable property mortgaged to the decree-holder, or other immovable property belonging to the defaulter may be proceeded against.

(5) In the seizure and sale of movable property the following rules shall be observed:—

- (a) The sale officer, shall after giving previous notice to the decree-holder, proceed to the village where the defaulter resides or the property to be distrained is situated and serve a demand notice upon the defaulter if he is present. If the amount due together with the expenses be not at once paid, the sale officer shall make the distress and shall immediately deliver to the defaulter a list or inventory of the property distrained and an intimation of place and day and hour at which the distrained property will be brought to sale if the amounts due are not previously discharged. If the defaulter is absent, the sale officer shall serve the demand notice on some adult male member of his family, or on his authorized agent, or when such service cannot be effected, shall affix a copy of the demand notice on some conspicuous part of his residence. He shall then proceed to make the distress and shall fix the list of the property attached on the

usual place of residence of the defaulter, endorsing thereon the place where the property may be lodged or kept and an intimation of the place, day and hour of sale.

- (b) After the distress is made, the sale officer may arrange for the custody of the property attached, with the decree-holder or otherwise. If the sale officer requires the decree-holder to undertake the custody of the property he shall be bound to do so and any loss incurred owing to his negligence shall be made good by the decree-holder. If the attached property is livestock, the decree-holder shall be responsible for providing the necessary food therefor. The sale officer may, at the instance of the defaulter or of any person claiming an interest in such property, leave it in the village or place where it was attached, in the charge of such defaulter or person, if he enters into a bond in the form specified by the Registrar with one or more sufficient sureties for the production of the property when called for.
- (c) The distress shall be made after sunrise and before sunset and not at any other time.
- (d) The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the sum due by the defaulter together with interest and all expenses incidental to the distraint, detention and sale.
- (e) If crops or ungathered products of the land belonging to a defaulter are attached, the sale officer may cause them to be sold when fit for reaping or gathering, or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (f) The sale officer shall not work the bullocks or cattle, or make use of the goods or effect distrained; and he shall provide the necessary food for the cattle or livestock, the expense attending which shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.
- (g) It shall be lawful for the sale officer to force open any stable, cow house, granary, godown, out-house or other building and he may also enter any dwelling house, the outer door of which may be open and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein, provided always that it shall not be lawful for the officer to break open or enter apartment in such dwelling house appropriated for the zenana or residence of women except as hereinafter provided.
- (h) Where the sale officer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outer door of which may be shut or within any apartments

appropriated to women which by custom or usage are considered private, the sale officer shall represent the fact to the officer in charge of the nearest police station. On such representation the officer-in-charge of the said station shall send a police officer to the spot in the presence of whom the sale officer may force open the other door of such dwelling house, in like manner as he may break open the door of any room within the house except the zenana. The sale officer may also, in the presence of a police officer, after due notice given for the removal of women within a zenana and, after furnishing means for their removal in a suitable manner if they be women of rank who, according to the custom or usage cannot appear in public, enter the zenana apartments for the purpose of distraining the defaulter's property, if any, deposited therein, but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

- (j) The sale officer shall on the day previous to and on the day of sale cause proclamation of the time and place of the intended sale to be made by beat of drum in the village in which the defaulter resides and in such other place or places as the officer may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of the period of 15 days from the date on which the sale notice has been served or affixed in the manner prescribed in clause (a):

Provided that where the property seized is subject to speedy and natural decay, or where the expense of keeping it in custody is likely to exceed its value, the sale officer may sell it at any time before the expiry of the said period of 15 days, unless the amount due is sooner paid.

- (j) At the appointed time the property shall be put up in one or more lots, as the sale officer may consider advisable, and shall be disposed of to the highest bidder:

Provided that it shall be open to the sale officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons. Where the property is sold for more than the amount due, the excess amount, after deducting the interest and the expenses of process and the other charges, shall be paid to the defaulter:

Provided, further, that the Recovery Officer or the sale officer may, in his discretion, adjourn the sale to a specified day and hour recording his reasons for such adjournment. Where a sale is so adjourned for a longer period than 7 days, a fresh proclamation under clause (h) shall be made unless the judgment debtor consents to waive it.

- (k) The property shall be paid for in cash at the time of sale, or as soon thereafter as the officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for it in full. Where the purchaser may fail in the payment of purchase money, the property shall be resold.

- (l) Where it is proved to the satisfaction of any civil court of competent jurisdiction that any property which has been distrained under these rules has been forcibly or clandestinely removed by any person, the court may order forthwith such property to be restored to the sale officer.
- (m) Where prior to the day fixed for sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property attached, pays the full amount due including interest, batta and other costs incurred in attaching the property, the sale officer shall cancel the order of attachment and release the property forthwith.
- (n) The movable properties mentioned as exempt from attachment in the proviso to section 60 of the Code of Civil Procedure, 1908 (5 of 1908), shall not be liable to attachment or sale under these rules.

(6) Where the movable property to be attached is the salary or allowance or wages of a public officer or of a servant of a railway company or local authority or a firm or a company, the Recovery Officer may, on receiving a report from the sale officer, order that the amount shall, subject to the provisions of section 60 of the Code of Civil Procedure, 1908 (5 of 1908), be withheld from such salary or allowances or wages either in one payment or by monthly instalments as the said Recovery Officer may direct and upon notice of the order, the officer or other person whose duty it is to disburse such salary or allowance or wages shall withhold and remit to the sale officer, the amount due under the order or the monthly instalment, as the case may be.

(7) (i) Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter, prohibiting him from transferring the share or interest or charging it in any way.

(ii) Where the property to be attached is a negotiable instrument not deposited in a court, nor in the custody of a public officer, the attachment shall be made by actual seizure and the instrument shall be brought to the office of the Recovery Officer ordering the attachment and be held subject to his further orders.

(iii) Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer, requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders or the Recovery Officer issuing the notice:

Provided that where such property is in the custody of a court or Recovery Officer of another district, any question of title or priority arising between the decree-holder and any other person not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such court or Recovery Officer.

(8) (i) Where the property to be attached is a decree either for the payment of money or for sale in enforcement of a mortgage or charge, the attachment shall be made if the decree sought to be attached was passed by the Registrar or by any person to whom a dispute was transferred by the Registrar under section 66 of the Act or by an arbitrator, then by the order of the Registrar.

(ii) Where the Registrar makes an order under clause (i) he shall, on the application of the decree holder who has attached the decree, proceed to execute the attached decree and apply the net proceeds in satisfaction of the decree sought to be executed.

(iii) The holder of a decree sought to be executed by the attachment of another decree of the nature specified in clause (i), shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner for the holder thereof.

(iv) Where the property to be attached in execution of a decree is a decree other than a decree of the nature referred to in clause (i), the attachment shall be made by the issue of a notice by the Recovery Officer to the holder of such decree, prohibiting him from transferring or charging the same in any way.

(v) The holder of a decree attached under this sub-rule shall give the Recovery Officer executing the decree such information and aid as may reasonably be required.

(vi) On the application of the holder of a decree sought to be executed by the attachment of another decree, the Recovery Officer making an order of attachment under this sub-rule shall give notice of such order to the judgment-debtor bound by the decree attached; and no payment or adjustment of the attached decree made by the judgment debtor in contravention of such order after receipt of notice thereof, either through the said Recovery Officer or otherwise, shall be recognised so long as the attachment remains in force.

(9) Where the movable property to be attached is—

(a) a debt due to the defaulter in question,

(b) a share in the capital of a corporation or a deposit invested therein, or

(c) other movable property not in the possession of the defaulter, except property deposited in or in the custody of, any civil court, the attachment shall be made by a written order signed by the Recovery Officer prohibiting—

(i) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof;

(ii) in the case of a share or deposit, the person in whose name the share or the deposit may be standing, from transferring the share or deposit or receiving any dividend or interest thereon; and

- (iii) in the case of any other movable property except aforesaid, the person in possession of it from giving it over to the defaulter.

A copy of such order shall be sent in the case of the debt to the debtor, in the case of the share of deposit to the proper officer of the corporation and in the case of the other movable property except as aforesaid to the person in possession of such property. As soon as the debt referred to in clause (a) or the deposit referred to in clause (b) mature, the Recovery Officer may direct the person concerned to pay the amount to him. Where the share is not withdrawable, the said Recovery Officer shall arrange for its sale through a broker. Where the share is withdrawable, its value shall be paid to the said Recovery Officer or to the party referred to in clause (c), the person concerned shall place it in the hands of the said Recovery Officer as it becomes deliverable to the defaulter.

(10) Immovable property shall not be sold in execution of a decree unless such property has been previously attached; provided that where the decree has been obtained on the basis of a mortgage of such property it shall not be necessary to attach it.

(11) In the attachment and sale or sale without attachment of immovable property the following rules shall be observed:

- (a) The application presented under sub-rule (3) shall contain a description of the immovable property to be proceeded against, sufficient for its identification and in case such property can be identified by boundaries or numbers in a record of settlement or survey, the specification of such boundaries or numbers and the specification of the defaulter's share or interest in such property to the best of the belief of the decree-holder and so far as he has been able to ascertain it.
- (b) The demand notice issued by the Recovery Officer under sub-rule (3) shall contain the name of the defaulter, the amount due, including the expenses, if any, and the batta to be paid to the person who shall serve the demand notice, the time allowed for payment and in case of non-payment, the particulars of the properties to be attached and sold or to be sold without attachment as the case may be. After receiving the demand notice, the sale officer shall serve or cause to be served a copy of the demand notice upon the defaulter or upon some adult male member of his family at his usual place of residence, or upon his authorised agent or, if such personal service is not possible, shall affix a copy thereof on some conspicuous part of the immovable property about to be attached and sold or sold without attachment, as the case may be:

Provided that where the Recovery Officer is satisfied that a defaulter with intent to defeat or delay the execution proceeding against him is about to dispose of the whole or any part of his property, the demand notice issued by the Recovery Officer under sub-rule (3) shall not allow any time to the defaulter for payment of the amount due by him and the property of the defaulter shall be attached forthwith.

- (c) If the defaulter fails to pay the amount specified in the demand notice within the time allowed, the sale officer shall proceed to attach and sell, or sell without attachment, as the case may be, the immovable property noted in the application for execution in the following manner.
- (d) Where attachment is required before sale, the sale officer shall, if possible, cause a notice of attachment to be served on the defaulter personally. Where personal service is not possible, the notice shall be affixed in some conspicuous part of the defaulter's last known residence, if any. The fact of attachment shall also be proclaimed by beat of drum or other customary mode at some place on or adjacent to such property and at such other place or places as the Recovery Officer may consider necessary to give due publicity to the sale. The attachment notice shall set forth that, unless the amount due with interest and expenses be paid within the date therein mentioned, the property will be brought to sale. A copy shall be sent to the decree-holder. Where the sale officer so directs the attachment shall also be notified by public proclamation in the official gazette.
- (e) Proclamation of sale shall be published by affixing a notice in the office of the Recovery Officer and the taluk office at least thirty days before the date fixed for the sale and also by beat of drum in the village (on two consecutive days previous to the date of sale and on the day of sale prior to the commencement of the sale). Such proclamation shall, where attachment is required before sale, be made after the attachment has been effected. Notice shall also be given to the decree-holder and the defaulter. The proclamation shall state the time and place of sale and specify as fairly and accurately as possible—
 - (i) the property to be sold,
 - (ii) any encumbrance to which the property is liable,
 - (iii) the amount for the recovery of which sale is ordered, and
 - (iv) every other matter which the sale officer considers material for a purchaser to know in order to judge the nature and value of the property.
- (f) When any immovable property is sold under these rules, the sale shall be subject to the prior encumbrances on the property, if any. The decree-holder shall, when the amount for the realisation of which the sale is held exceeds Rs. 100, furnish to the sale officer within such time as may be fixed by him or by the Recovery Officer, an encumbrance certificate from the Registration Department for the period of not less than twelve years prior to the date of attachment of the property sought to be sold, or in cases falling under the proviso to sub-rule (10), prior to the date of the application for execution. The time for production of the encumbrance certificate may be extended at the discretion of the sale officer or the Recovery Officer as the case may be. The sale shall be by public auction to the highest bidder, provided that it shall be open to the sale officer to decline to accept the highest bid where the price offered appears to be unduly low or for other reasons and

provided, also that the Recovery Officer or the sale officer may, in his discretion, adjourn the sale to a specified day and hour, recording his reason for such adjournment. Where a sale is so adjourned for a longer period than 7 days, a fresh proclamation under clause (e) shall be made, unless the judgment-debtor consents to waive it. The sale shall be held after the expiry of not less than thirty days calculated from the date on which notice of the proclamation was affixed in the office of the Recovery Officer. The time and place of sale shall be fixed by the Recovery Officer and the place of sale shall be the village where the property to be sold is situated or such adjoining prominent place of public resort as may be fixed by the said Recovery Officer :

Provided that in cases where an encumbrance certificate is not obtainable owing to the destruction of the connected records, an affidavit from the village patwari in regard to the encumbrances known to him supported by a certificate from the Registration Department that the encumbrance certificate cannot be granted owing to the destruction of the connected records, shall be accepted in the place, of an encumbrance certificate.

- (g) A sum of money equal to 15 per cent of the price of the immovable property shall be deposited by the purchaser in the hands of the sale officer at the time of the purchase, and in default of such deposit, the property shall forthwith be resold :

Provided that, where the decree-holder is the purchaser and is entitled to set off the purchase money under clause (k) the sale officer shall dispense with the requirements of this rule.

- (h) The remainder of the purchase money and the amount required for the general stamp for the sale certificate shall be paid within fifteen days from the date of sale :

Provided that the time for payment of the cost of the stamp may for good and sufficient reasons, be extended at the discretion of the Recovery Officer up to thirty days from the date of sale :

Provided further that in calculating the amounts to be paid under this clause, the purchaser shall have the advantage of any set off to which he may be entitled under clause (k); and

- (i) In default of payment within the period mentioned in the last preceding clause, the deposit may, if the Recovery Officer thinks fit after defraying the expenses of the sale be forfeited to the Government and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.
- (j) Every resale of immovable property in default of payment of the amounts mentioned in clause (h) within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period therein before prescribed for the sale.

(k) Where a decree-holder purchases the property, the purchase money and the amount due on the decree shall be set off against one another, and the sale officer shall enter up satisfaction of the decree in whole or in part accordingly.

(12) Where prior to the date fixed for a sale, the defaulter or any person acting on his behalf or any person claiming an interest in the property sought to be sold tenders payment of the full amount due together with interest, batta and other expenses incurred in bringing the property to sale, including the expenses of attachment if any, the sale officer shall forthwith release the property after cancelling where the property has been attached, the order of attachment.

(13) (i) Where immovable property has been sold by the sale officer any person either owning such property or holding an interest therein by virtue of a title acquired before such sale may apply to have the sale set aside on his depositing with the Recovery Officer,—

(a) for payment to the purchaser a sum equal to 5 per cent of the purchase money, and

(b) for payment to the decree-holder, the amount of arrears specified in the proclamation of sale as that for the recovery of which the sale was ordered together with interest thereon and the expenses of attachment, if any, and sale and other costs due in respect of such amount, less amount which may since the date of such proclamation have been received by the decree-holder.

(ii) If such deposit and application are made within thirty days from the date of sale, the Recovery Officer shall pass an order setting aside the sale and shall repay to the purchaser, the purchase money so far as it has been deposited, together with the 5 per cent deposited by the applicant:

Provided that if more persons than one have made deposit and application under this sub-rule, the application of the first depositor to the officer authorised to set aside the sale, shall be accepted.

(iii) If a person applies under sub-rule (14) to set aside the sale of immovable property, he shall not be entitled to make an application under this sub-rule.

(14) (i) At any time within thirty days from the date of the sale of immovable property, the decree-holder or any person entitled to share in a rateable distribution of the assets or whose interests are effected by the sale, may apply to the Recovery Officer to set aside the sale on the ground of a material irregularity or mistake or fraud in publishing or conducting it:

Provided that no sale shall be set aside on the ground of irregularity or fraud unless the said Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of such irregularity, mistake or fraud.

- (ii) If the application be allowed, the said Recovery Officer shall set aside the sale and may direct a fresh one.
- (iii) On the expiration of thirty days from the date of sale if no application to have the sale set aside is made or if such application has been made and rejected, the said Recovery Officer shall make an order confirming the sale :

Provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

- (iv) Whenever the sale of any immovable property is not so confirmed or is set aside, the deposit or the purchase money, as the case may be, shall be returned to the purchaser.
- (v) After the confirmation of any such sale, the said Recovery Officer shall grant a certificate of sale bearing his seal and signature to the purchaser, and such certificate shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of the purchase in all courts and tribunals, where it may be necessary to prove it and no proof of the seal or signature of the Recovery Officer shall be necessary unless the authority before whom it is produced shall have reason to doubt its genuineness.
- (vi) An order made under this sub-rule shall be final, and shall not be liable to be questioned in any suit or other legal proceedings.

(15) Where any lawful purchaser of immovable property is resisted and prevented by any person other than a person (not being the defaulter) claiming in good faith to be in possession of the property on his own account from obtaining possession of the immovable property purchased, any court of competent jurisdiction on application, and production of the certificate of sale provided for by sub-rule (14) shall cause the proper process to be issued for the purpose of putting such purchaser in possession, in the same manner as if the immovable property purchaser had been decreed to the purchaser by a decision of the court.

(16) It shall be lawful for the sale officer to sell the whole or any portion of the immovable property of a defaulter in discharge of money due :

Provided always that so far as may be practicable, no larger section or portion of immovable property shall be sold than may be sufficient to discharge the amount due with interest and expenses of attachment if any and sale.

(17) Where an attachment has been made under these rules, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

Explanation.—For the purposes of this sub-rule, claims enforceable under an attachment include claims for the rateable distribution of assets under sub-rule (24).

(18) Persons employed in serving notice or in other process under these rules shall be entitled to batta at such rates as may from time to time be fixed by the Recovery Officer.

(19) Where the cost and charges incurred in connection with attachment and sale of movable property or the attachment and sale or sale without attachment of immovable property under this rule, exceeds the amount of the cost deposited by the decree-holder under sub-rule (1), such excess shall be deducted from the sale proceeds of the property sold or the moneys paid by the defaulter, as the case may be, and the balance shall be made available to the decree-holder.

(20) Every person making a payment towards any money due for the recovery of which application has been made under the rule shall be entitled to a receipt for the amount signed by the sale officer or other officer empowered by the Recovery Officer in that behalf; such receipt shall state the name of the person making the payment and the subject matter in respect of which the payment is made.

(21)(a) Where any claim is preferred to, or any objection is made to the attachment of, any property attached under this rule on the ground that such property is not liable to such attachment, the sale officer shall investigate the claim or objection and dispose of it on the merits :

Provided that no such investigation shall be made when the sale officer considers that the claim or objection is frivolous.

(b) Where the property to which the claim or objection relates has been advertised for sale, the sale officer may postpone the sale pending the investigation of the claim or objection.

(c) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit within six months from the date of the order to establish the right which he claims to the property in dispute, but, subject to the result of such suit if any, the order shall be conclusive.

(22)(i) Any deficiency of price which may happen on a re-sale held under clause (j) of sub-rule (11) by reason of the purchaser's default, and all expenses attending such re-sale shall be certified by the sale officer to the Recovery Officer and shall, at the instance of either the decree-holder or the defaulter, be recoverable from the defaulting purchaser under the provisions of this rule. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.

(ii) Where the property may on the second sale, sell for a higher price than at the first sale, the defaulting purchaser at the first sale, shall have no claim to the difference or increase.

(23) Where any property has been attached in execution of a decree, but by reason of the decree-holder's default the Recovery Officer is unable to proceed further with the application for execution, he shall either dismiss the application or for any sufficient reason adjourn the proceedings to a future date. Upon the dismissal of such application, the attachment shall cease.

(24)(a) Where the sale officer attaches or has attached under these rules, any property not in the custody of any court, which is already under attachment made in execution of a decree of any court, such court shall receive and realize such property and shall determine claims thereto and any objections to the attachment thereof :

Provided that where the property is under attachment in the execution of decree of more courts than one, the court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the court of the highest grade, or where there is no difference in grade between such courts, the court under whose decree the property was first attached.

(b) Where assets are held by the sale officer and before the receipt of such assets, demand notices in pursuance of applications for execution of decree against the same defaulter have been received from more than one decree-holder and the decree-holders have not obtained satisfaction, the assets after deducting the costs of realisation, shall be rateably distributed by the sale officer among all such decree-holders in the manner provided in section 73 of the Code of Civil Procedure, 1908.

(25) Where a defaulter dies before the decree has been fully satisfied an application under sub-rule (1) may be made against the legal representative of the deceased and thereupon all the provisions of this rule shall, save as otherwise provided in this sub-rule, apply as if such legal representative were the defaulter. Where the decree is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Recovery Officer executing the decree may, of his own motion or on the application of the decree-holder, compel such legal representative to produce such accounts as he thinks fit.

(26) Where, in connection with the proceedings on an application under section 96 of the Act, any person requires the issue of any process or objects to any process issued or objects to any order passed, he shall pay such fee as may be specified by the Registrar in this behalf.

32. Mode of making attachment before judgment.—(1) Attachment of property under section 98 of the Act shall be made in the manner provided in rule 31.

(2) Where a claim is preferred to property attached under sub-rule (1), such claim shall be investigated in the manner and by the authority specified in rule 31.

(3) Where a direction is made for the attachment of any property under sub-rule (1), the Recovery Officer shall order the attachment to be withdrawn—

(a) when the party concerned furnishes the security required, together with security for the costs of the attachment; or

(b) when the liquidator determines under clause (b) of sub-section 2 of section 69 of the Act that no contribution is payable by the party concerned; or

- (c) when the Registrar passes an order under sub-section (1) of section 64 that the party concerned need not repay or restore any money or property or contribute any sum to the assets of the society by way of compensation; or
- (d) when the dispute referred to in sub-section (1) of section 66 has been decided against the party at whose instance the attachment was made.

(4) Attachment made under sub-rule (1) shall not affect the rights existing prior to the attachment, of persons not parties to the proceedings in connection with which the attachment was made, nor bar any person holding a decree against the person whose property is attached from applying for the sale of the property under attachment in execution of such decree.

(5) Where property is under attachment by virtue of the provisions of this rule and a decree is subsequently passed against the person whose property is attached, it shall not be necessary upon an application for execution of such decree to apply for re-attachment of the property.

33. Procedure for the distraint and sale of property under section 83 and for the sale of mortgaged property under section 84.—The procedure prescribed under rule 31 for execution of a decree, shall, to the extent necessary, be applicable in respect of a mortgage bank requiring the provisions of sections 83 and 84 to be applied against a defaulter.

34. Mode of service of summons.—(1) Every summons issued under the Act shall be in writing, shall be authenticated by the seal, if any, of the officer by whom it is issued and shall be signed by such officer or by any person authorized by him in writing in that behalf. It shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence, or to produce a document, or for both purposes; and any particular document the production of which is required, shall be described in the summons with reasonable accuracy.

(2) Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce document shall be deemed to have complied with the summons if he causes such document to be produced, instead of attending personally to produce the same.

(3) The service of summons under the Act on any person may be effected in any of the following ways:

- (a) by giving or tendering it to such person; or
- (b) if such person is not found, by leaving it at his last known place of abode or business or by giving or tendering it to some adult member of his family; or
- (c) if the address of such person is known to the Registrar or other authorised person, by sending it to him by post registered; or

(d) if none of the means aforesaid is available, by affixing it in some conspicuous part of his last known place of abode or business.

(4) Where the serving officer delivers or tenders copy of the summons to the defendant personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

(5) The serving officer shall in all cases in which the summons has been served under sub-rule (4), endorse or annex, or cause to be endorsed or annexed, on or to the original summons a return stating the time when and the manner in which the summons was served and the name and address of the person if any identifying the person served and witnessing the delivery or tender of the summons.

(6) Where the party to be summoned is a public officer or is the servant of a railway company or local authority, the officer issuing the summons may, if it appears that the summons may be most conveniently so served, send it by registered post prepaid for acknowledgment for service on the party to be summoned to the head of the office in which he is employed together with a copy to be received endorsed on the original summons.

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CHAPTER X

APPEALS REVISION AND REVIEW

35. **Qualifications of members of Tribunal.**—No person shall be qualified to be a member of the Tribunal unless he,—

- (a) is a district judge, or has exercised the powers of a district judge; or
- (b) is an advocate of at least ten years' standing; or
- (c) is a person who has obtained a degree in law and has had experience in the Co-operative Movement.

MISCELLANEOUS

36. Maintenance of register of names etc. of co-operative societies.—The Registrar shall maintain,—

(1) a registrar of the names and addresses of all co-operative societies registered under the Act; and

(2) a record of the bye-laws of each such co-operative society, with all subsequent amendments thereto, arranged in the order in which the amendments are registered.

37. Accounts and other books to be maintained by societies.—A co-operative society shall keep such account books and registers in connection with the business of the society, as the Registrar may, from time to time, require.

38. Power of Registrar to direct accounts and books to be written up.—The Registrar may, by order in writing, direct any co-operative society to get any or all the accounts and books required to be kept by it under rule 37 written up to such date, in such form and within such time as he may direct. In case of failure by any society to do so, the Registrar may depute an officer subordinate to him to write up the accounts and books. In such cases, it shall be competent for the Registrar to determine, with reference to the time involved in the work and the emoluments of the officer deputed to it, the charges which the society concerned should pay to the State Government and to direct its recovery from the society.

39. Statements and returns to be furnished by societies.—(1) Every co-operative society shall prepare for each co-operative year in such form as may be specified by the Registrar:—

- (a) a statement showing the receipts and disbursements for the year,
- (b) a profit and loss account,
- (c) a balance sheet, and
- (d) such other statements or returns as may be specified by the Registrar.

(2) Every co-operative society shall submit to the Registrar, annually, within such time as he may direct a copy of the statements specified in sub-rule (1). After the Registrar or auditor has verified the statements and granted his audit certificate, the society shall publish the audit certificate and such of the prescribed statements as he may direct in the manner specified by him and the audit certificate shall so far as practicable be granted within one year from the date of receipt of the statements specified in sub-rule (1).

(3) Every co-operative society shall, in addition to the annual statements specified in sub-rule (1) also submit to the Registrar any statement or return in such form, within such time, and for such period as the Registrar may specify.

(4) In case of failure by any society to submit any statement or return specified in sub-rule (1) or (3) within the time directed by him, the Registrar may depute an officer to prepare the necessary statement or return. In such cases, it shall be competent for the Registrar to determine, with reference to the time involved in the work and the emoluments of the officer deputed to do it, the charges which the society concerned should pay to the Government and to direct its recovery from the society.

(5) Every co-operative society shall prepare a list of its members as on the last day of each co-operative year. The list shall be kept open at the office of the society during office hours for inspection by any member of the society. The list of members shall be revised fourteen days prior to the date of the meeting fixed for the election of the Committee of the society and shall include the members admitted and exclude the members removed during the period commencing from the date when the list was last revised and ending with the date of the revision of the list.

40. Certifying copies of entries in books.—(1) For the purpose specified in section 116, a copy of an entry in the books of a co-operative society regularly kept in the course of business shall be certified,—

(a) by the chairman or secretary of the society and shall also bear the society's seal, or

(b) by the liquidator where an order has been passed under section 68, appointing a liquidator of the society.

(2) The charges to be levied for the supply of such certified copies shall not exceed the amounts specified in that behalf by the Registrar from time to time.

41. Restrictions on persons appearing as legal practitioners.—(1) In proceedings before the Registrar, the arbitrator or any other person deciding a dispute or in proceedings in appeals before the Registrar, the Tribunal or the State Government, a legal practitioner shall not be entitled to appear to represent any party; but the Registrar or any other authority deciding a dispute or hearing an appeal may permit such appearance in special cases.

(2) Any officer of a co-operative society who appears as a legal practitioner—

(i) against such society or against any other co-operative society which is a member of the former society; or

(ii) (otherwise than in an honorary capacity) on behalf of such society or on behalf of any other society which is a member of the former society,

shall be deemed to have vacated his office in the society.

42. Inspection of Documents.—A member of a co-operative society or any member of the public may inspect the following documents in the office of the Registrar free of charge and may obtain certified copies thereof on payment of the following fees:

	Naye paise
(i) application for registration of a society	15 each
(ii) certificate of registration	15 each
(iii) bye-laws of societies	15 per folio
(iv) amendment of bye-laws of a society	15 per folio
(v) order of cancellation of the registration of a society	15 per folio
(vi) audit memorandum of a society	15 per folio
(vii) annual balance-sheet	15 per folio
(viii) order for surcharge under section 64	15 per folio
(ix) order referring a dispute to arbitration under section 66	15 per folio
(x) order of supersession of a committee or removal of any member thereof	15 per folio
(xi) any other order against which an appeal is provided	15 per folio

